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CHAPTER 24**REDEVELOPMENT AGENCY**

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Sec. 24.6. Standards as to Exercise of Rights in Redevelopment Projects Without Discrimination.
Sec. 24.7. Relocation Appeals Board; Establishment; Composition; Appointment; Terms; Duties; Compensation.

SEC. 24.1. CREATED UNDER PROVISIONS OF STATE LAW. There is need for a redevelopment agency, to be known as the Redevelopment Agency of the City and County, to function in the City and County under the provisions of Sections 33000 to 33954 of the State Health and Safety Code.

A redevelopment agency shall be created and constituted at the time and in the manner prescribed by Sections 33200 to 33237 of such code. (Res. No. 7779 (1939))

SEC. 24.1-1. INCREASING NUMBER OF MEMBERS TO BE APPOINTED TO REDEVELOPMENT AGENCY. Notwithstanding the provisions of Section 24.1 of this Chapter, and pursuant to the provisions of Section 33110 of the Health and Safety Code of the State of California, the number of members to be appointed to the Redevelopment Agency of the City and County of San Francisco is hereby increased to seven, one of whom shall be a woman. (Added by Ord. 35-76, App. 2/13/76)

SEC. 24.2. HOUSING AUTHORITY TO CONDUCT SURVEY PRIOR TO APPROVAL OF REDEVELOPMENT PROJECT. The Board of Supervisors does hereby declare as its policy that it will withhold approval of any redevelopment project until such time as the housing authority conducts a survey as to the availability of rehousing facilities for persons of low income who will be displaced by such project, and submits to the Board of Supervisors for its consideration a report reflecting the results of such survey. (Res. No. 11571 (1939))

SEC. 24.3. QUARTERLY REPORTS OF REDEVELOPMENT AGENCY. The Redevelopment Agency of the City and County shall file with the Board of Supervisors a detailed report of all its transactions, including a statement of all revenues and expenditures, at quarterly intervals. (Res. No. 10911 (1939))

SEC. 24.4. COMPENSATION OF MEMBERS; TRAVEL EXPENSES. Subject to the budget and fiscal provisions of the Charter, the compensation of the

appointive members of the Redevelopment Agency, exclusive of actual and necessary expenses, including traveling expenses, shall be \$25 per meeting for each meeting of the agency actually attended by the members; provided, that the aggregate amount paid to any one member shall not exceed \$1,250 per year, and the aggregate amount paid all the members shall not exceed \$6,250 per year. (Amended by Ord. 92-63, App. 4/23/63)

SEC. 24.5. RECOMMENDATIONS OF PLANNING COMMISSION.

The City Planning Commission shall furnish the following information to the Board of Supervisors at as early a date as possible:

(a) Recommendations as to area which should first be made subject of survey for the purpose of redevelopment.

(b) The amount of funds necessary to conduct such a survey. (Res. No. 5239 (1939))

SEC. 24.6. STANDARDS AS TO EXERCISE OF RIGHTS IN REDEVELOPMENT PROJECTS WITHOUT DISCRIMINATION.

(1) The Board of Supervisors declares as a matter of general policy that the right to buy, lease, sublease, use or occupy land in redevelopment projects without discrimination or segregation based upon race, color, creed, national origin, ancestry, age, sex, sexual orientation or disability should properly be considered in the nature of a civil right and that appropriate steps should be taken to safeguard and protect that right.

(2) The Board recommends that every tentative plan submitted by the Planning Commission and every redevelopment plan submitted by the Redevelopment Agency or any person, firm, association or corporation or any public or private agency qualified to do so for approval of the Board of Supervisors pursuant to the Community Redevelopment Act contain, in addition to the other requirements set forth in such act, adequate provisions precluding direct or indirect discrimination against or segregation of any person or group of persons on account of race, color, creed, national origin, ancestry, age, sex, sexual orientation or disability in connection with the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of land or of any interest therein within the redevelopment projects which is acquired or to be acquired by the Redevelopment Agency.

(3) The Board further recommends that each tentative plan and each redevelopment plan submitted to the Board of Supervisors for approval shall require that express provisions be included in deeds, leases and contracts entered into by the Redevelopment Agency in substantially the following form:

(a) **In Deeds.** "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and this conveyance is made and accepted upon and subject to the following conditions:

"(1) That there shall be no discrimination against or segregation of any person or group of persons on account of race, creed, color, national origin, ancestry, age, sex, sexual orientation or disability in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises herein conveyed, nor shall the grantee himself or herself or any person claiming under or through him or her establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees or vendees in the premises herein conveyed.

"(2) The foregoing covenant shall run with the land and shall bind the grantee, his or her heirs, executors, administrators and assigns and all persons claiming under or through them.

"(3) In the event of any breach of the foregoing covenant by any party bound thereby, it shall be the duty of the Redevelopment Agency to endeavor immediately to remedy such breach by conference, conciliation and persuasion. In case of failure so to remedy such breach, or in advance thereof, if in the judgment of the Redevelopment Agency circumstances so warrant, the breach shall be enjoined or abated by appropriate proceedings brought by the Redevelopment Agency."

(b) **In Leases.** "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and this lease is made and accepted upon and subject to the following conditions:

"(1) That there shall be no discrimination against or segregation of any person or group of persons on account of race, creed, color, national origin, ancestry, age, sex, sexual orientation or disability in the lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises herein leased, nor shall the lessee himself or herself or any person claiming under or through him or her establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees or vendees in the premises herein leased.

"(2) The foregoing covenant shall bind the lessee, his or her heirs, executors, administrators and assigns and all persons claiming under or through them.

"(3) Any breach of the foregoing covenant by any party bound thereby may be enjoined or abated by appropriate proceedings brought by the immediate lessor of the person committing such breach or, in the event of his or her failure to act, it shall be the duty of the Redevelopment Agency, as agent and on behalf of the immediate lessor, and the lessor does irrevocably appoint the Redevelopment Agency as his or her agent for this purpose, to endeavor immediately to remedy the breach by conference, conciliation and persuasion, or, in the event of failure so to remedy such breach, then the breach shall be enjoined or abated by appropriate proceedings brought by the Redevelopment Agency."

(c) In contracts entered into by the Redevelopment Agency relating to the sale, transfer, or lease of land or of any interest therein acquired by such agency within any redevelopment area or project, the foregoing provisions, in substantially the form set forth, shall be included, and the contracts shall further provide that the foregoing provisions shall be binding upon and shall obligate the contracting party or parties and any subcontracting party or parties or other transferee under such instruments.

(4) The Board does further recommend that every tentative plan and every redevelopment plan which shall be submitted to the Board of Supervisors for approval shall declare it to be the duty of the Redevelopment Agency to exercise the rights, powers and privileges in respect to the prevention of discrimination and segregation granted by the tentative plan and redevelopment plan and by the clauses prohibiting discrimination and segregation required by such tentative plan and redevelopment plan to be inserted in deeds, leases and contracts relating to any interest in land which shall have been acquired by the Redevelopment Agency.

(5) This section must not be construed to preclude in any way the full and fair consideration according to law of any plans submitted in conformity with the Community Redevelopment Act. (Amended by Ord. 511-82, App. 10/14/82)

SEC. 24.7. RELOCATION APPEALS BOARD; ESTABLISHMENT; COMPOSITION; APPOINTMENT; TERMS; DUTIES; COMPENSATION. There is hereby established, pursuant to the provisions of California Health and Safety Code Section 33417.5, a Relocation Appeals Board composed of five members appointed by the Mayor and approved by the Board of Supervisors. One of the members first appointed shall be designated to serve for a term of one year; two for two years; and two for three years from the date of appointment. Thereafter, members shall be appointed as aforesaid for a term of office of three years, except that all vacancies occurring during a term shall be filled for the unexpired term.

The Board shall promptly hear all complaints brought by residents of the various project areas relating to relocation and shall determine if the Redevelopment Agency has complied with the provisions of Chapter 4 of the California Health and Safety Code and, where applicable, federal regulations. The Board shall, after a public hearing, transmit its findings and recommendations to the Agency. The members of the Board shall serve without compensation; but each of the members shall be reimbursed for his or her necessary expenses incurred in performance of his or her duties but not to exceed \$15 per meeting and \$45 per month. (Added by Ord. 334-72, App. 11/14/72)

CHAPTER 24A**ADMINISTRATIVE STRUCTURE LOCAL RENT SUPPLEMENT
PROGRAM IN THE OFFICE OF MAYOR**

- Sec. 24A.01. Definitions.
- Sec. 24A.02. Transfer of Funds from Chief Administrative Officer to Mayor.
- Sec. 24A.03. Authority of Mayor to Execute Contracts.
- Sec. 24A.04. Providing for Administration and Expenditures Relating Thereto.
- Sec. 24A.05. Scope of Rent Supplement Assistance.
- Sec. 24A.06. Projects Eligible for Benefits and Authority of Mayor to Contract.
- Sec. 24A.07. Eligible Housing Owner.
- Sec. 24A.08. Qualified Tenant.
- Sec. 24A.09. Certificate of Eligibility.
- Sec. 24A.10. Term of Contract.
- Sec. 24A.11. Maximum Annual Project Payments Under Contract.
- Sec. 24A.12. Maximum Payments Under Contract for Each Tenant.
- Sec. 24A.13. Time of Payment Under Contract.
- Sec. 24A.14. Recertification of Income Under Contract.
- Sec. 24A.15. Hardship Cases.
- Sec. 24A.16. Tenant Occupancy Limitations.
- Sec. 24A.17. Form of Lease.
- Sec. 24A.18. Housing Owner's Obligation Under Contract to Report Tenant Income Increase.
- Sec. 24A.19. Change in Tenant Income Status.
- Sec. 24A.20. Rules and Regulations by Mayor.
- Sec. 24A.21. Severability.

SEC. 24A.01. DEFINITIONS. For the purposes of this Chapter, the following words and phrases are defined to mean and include:

- (a) "City" means City and County of San Francisco.
- (b) "Mayor" means the Mayor of the City and County of San Francisco or an officer of the office of the Mayor empowered to exercise any of the functions of the Mayor.
- (c) "Owner" means the owner or lessee or designated operator of real property containing standard housing located within the City and County of San Francisco.
- (d) "Dilapidated housing" means a housing unit that does not provide safe and adequate shelter; and in its present condition endangers the health, safety or wellbeing of the occupants. Such a housing unit shall have one or more critical defects, or a combination of intermediate defects in sufficient number or extent to require considerable repair or rebuilding. Such defects may involve original construction, or they may result from continued neglect or lack of repair or from serious damage to the structure.
- (e) "Displaced by governmental action" means an individual or family, moved or to be moved from real property occupied as a dwelling unit as a result of

activities in connection with a public improvement or development program carried on by an agency of the United States or any state or local governmental body or agency.

(f) "Family" means two or more persons related by blood, marriage, or operation of law, who occupy the same dwelling unit.

(g) "Physically handicapped" means an individual who has a physical impairment which:

(1) Is expected to be of long continued and indefinite duration;

(2) Substantially impedes his or her ability to live independently; and

(3) Is of such nature that his or her ability to live independently could be improved by more suitable housing conditions.

(h) "Substandard housing" means a unit which is either dilapidated as defined in Paragraph (d) of this Section, or does not have one of the following plumbing facilities:

(1) Hot and cold piped water inside the unit;

(2) Usable flush toilet inside the structure for the exclusive use of the occupants of the unit; or

(3) Usable bathtub or shower inside the structure for the exclusive use of the occupants of the unit.

(i) "Elderly" means an individual 62 years of age or over. (Added by Ord. 290-72, App. 10/10/72)

SEC. 24A.02. TRANSFER OF FUNDS FROM CHIEF ADMINISTRATIVE OFFICER TO MAYOR. Pursuant to Section 515(3) of Article 7, Part III, of the San Francisco Municipal Code, funds specifically allocated and set aside to the Chief Administrative Officer for rent supplement programs shall be transferred by said Chief Administrative Officer to the Office of Mayor for the local rent supplement program, as provided for in this Chapter. (Added by Ord. 290-72, App. 10/10/72)

SEC. 24A.03. AUTHORITY OF MAYOR TO EXECUTE CONTRACTS. The Mayor is hereby authorized to contract with eligible housing owners to make local rent supplement payments to facilitate temporary relocations of qualified tenants with respect to the Yerba Buena Redevelopment Project, and to the extent necessary to comply with Federal District Court consent order dated November 9, 1970, to facilitate the provisions of not less than 1,500 new or rehabilitated units of low-rent housing in the City and County of San Francisco. The Mayor is further authorized to lease and sublet properties, including individual standard dwelling units, for utilization therein of local rent supplements and to enter into leases with the San Francisco Redevelopment Agency or City and County sponsored nonprofit corporations, which lease may contain a provision that the monthly rental payments not be in amounts and for a time period less than the owner's debt service obligation against that property. (Added by Ord. 290-72, App. 10/10/72)

SEC. 24A.04. PROVIDING FOR ADMINISTRATION AND EXPENDITURES RELATING THERETO. The cost of administration shall not exceed 30 percent of the allocation set aside pursuant to Section 515(3), Article 7, Part III, of the San Francisco Municipal Code. (Amended by Ord. 303-80, App. 6/27/80)

SEC. 24A.05. SCOPE OF RENT SUPPLEMENT ASSISTANCE. The Mayor may enter into a rent supplement contract with the owner of specific types of multifamily housing projects for payment of a portion of the rent on behalf of qualified tenants. The conditions of eligibility for such a contract and its terms are specified in this Part. (Added by Ord. 290-72, App. 10/10/72)

SEC. 24A.06. PROJECTS ELIGIBLE FOR BENEFITS AND AUTHORITY OF MAYOR TO CONTRACT. (a) Rent supplement payments shall be available for furnished and unfurnished 0-bedroom (studio) and 1-bedroom units renting for moderate amounts in connection with multifamily projects which involve:

- (1) New construction;
- (2) Rehabilitation of existing structures;
- (3) Existing standard dwelling units when approved by Federal District Court or when utilized with respect to temporary relocations of eligible tenants; and
- (4) The creation of standard units in structures previously containing sub-standard units.

(b) The Mayor is authorized to make rent supplement payments with respect to projects in which dwelling units do not contain kitchen facilities.

(c) The Mayor is authorized to make rent supplement payments with respect to projects containing furnished dwelling units.

(d) The Mayor is authorized to make rent supplement payments with respect to dwelling units concurrently receiving federal rent supplements under the National Housing Act as amended. (Added by Ord. 290-72, App. 10/10/72)

SEC. 24A.07. ELIGIBLE HOUSING OWNER. To be eligible to receive rent supplement payments, the owner of the multifamily project may be a non-profit, limited distribution, or a profit motivated entity. The project may be financed by, but not limited to, one of the following ways:

(a) By a mortgage under any section of the National Housing Act, as amended, including but not limited to projects financially assisted under Section 236 of such act.

(b) By state or local assistance through tax exemptions if the project is approved by the Mayor for receiving rent supplement payments. (Added by Ord. 290-72, App. 10/10/72)

SEC. 24A.08. QUALIFIED TENANT. (a) The benefits of the rent supplement payments are available only to an individual or a family renting a dwelling unit in a project owned by an eligible housing owner. To qualify for such benefits, the individual or family shall meet the following requirements:

(1) Have an annual income below the maximum amount established by the Mayor, which amount shall not be higher than can be established in the area where the property is located for occupancy in a low-rent public housing project assisted under the United States Housing Act of 1937. In computing a tenant's income for the purpose of this program, \$300 shall be deducted for each minor person who is a member of the immediate family of the tenant and residing with the tenant; and any earnings of such minor shall not be included in computing the tenant's income.

(2) In a case involving an elderly individual or a family whose head or spouse is elderly, have assets not exceeding \$5,000.

(3) In a case involving other than the elderly, have assets not exceeding \$2,000.

(4) Be one of the following:

(A) An individual or family displaced by governmental action.

(B) An individual who is 62 years of age or over; or physically handicapped.

(C) An head of a family who is or whose spouse is 62 years of age or over, or who is physically handicapped.

(D) An occupant of substandard housing.

(b) For the purpose of this Section, income shall mean total annual income consistent with policies and procedures utilized by the Department of Housing and Urban Development in administering the Federal Rent Supplement Program in San Francisco. Total annual income shall mean total gross income, before taxes and other deductions, received by all members of the tenant's household. In determining gross income, there shall be included all wages, social security payments, retirement benefits, military and veteran's disability payments, unemployment benefits, welfare benefits, interest and dividend payments, and such other income items defined as total annual income by the Department of Housing and Urban Development in its occupancy policies and procedures, rent supplemental program, which are incorporated hereby in reference as though fully set forth.

(c) For the purpose of this Section, first priority for occupancy in a rent supplemented unit shall be granted qualified displacees from the Yerba Buena Center Redevelopment Project, provided they make timely application. (Added by Ord. 290-72, App. 10/10/72)

SEC. 24A.09. CERTIFICATE OF ELIGIBILITY. (a) Upon request of a housing owner, the Mayor will review for eligibility the application by a prospective tenant for rent supplement payments. If the application meets the requirements of Sections 24A.08 and 24A.11, the Mayor shall issue a certificate of eligibility. The certificate shall state the amount of rent supplement to be paid monthly by the City and County to the housing owner on behalf of the qualified tenant. The payment shown in the certificate shall not, regardless of the tenant's income, exceed 70 percent of the approved rent for the unit. No certificate of eligibility shall be issued where the amount of rent supplement payment would be less than 10 percent of such approved rent. (Added by Ord. 290-72, App. 10/10/72)

SEC. 24A.10. TERM OF CONTRACT. The rent supplement contract shall be limited to 10 days from the date of the first payment made under the contract. Such contracts are to be extended for additional periods with the consent of City and County's Controller, to comply with the Federal District Court consent order dated November 9, 1970. (Added by Ord. 290-72, App. 10/10/72)

SEC. 24A.11. MAXIMUM ANNUAL PROJECT PAYMENTS UNDER CONTRACT. The rent supplement contract shall state the maximum dollar amount of the rent supplement payment for any one year, which maximum shall not exceed the amount sufficient, at the time of contract execution to reduce rents in all of the units covered by the contract to an average of \$60 per unit per month, plus a 10 percent contingency allowance. (Added by Ord. 290-72, App. 10/10/72)

SEC. 24A.12. MAXIMUM PAYMENTS UNDER CONTRACT FOR EACH TENANT. (a) Subject to the limitations of Section 24A.11 regarding maximum annual project payments, the rent supplement contract shall provide that the payment on behalf of a qualified tenant shall be that amount by which the rent approved by the Mayor for the unit exceeds $\frac{1}{4}$ of the tenant's income; or exceeds any welfare allowance for housing if such allowance is larger than $\frac{1}{4}$ of the tenant's income; or exceeds the sum of $\frac{1}{4}$ of the tenant's income, plus any relocation assistance allowance due him or her for housing. When such tenant's relocation assistance benefits expire, he or she shall be assured a local rent supplement so long as he or she meets all income and other eligibility criteria.

(b) In computing tenant's income for the purpose of this Section, the following deductions from total gross income shall be taken into consideration:

(1) \$300 shall be deducted for each minor person who is a member of the immediate family of the tenant and residing with the tenant; and any earnings of such minor not be included in computing the tenant's income.

(2) The Mayor may allow special deductions to take into account expenses incurred as a result of physical disability or continuing illness, the cost of necessary child care while a wage earner of the household is at work and such other deductions as he or she considers appropriate. (Added by Ord. 290-72, App. 10/10/72)

SEC. 24A.13. TIME OF PAYMENT UNDER CONTRACT. The rent supplement contract shall provide for payments to be made monthly to the housing owner on behalf of qualified tenants in the amounts set forth in the certificates of eligibility. (Added by Ord. 290-72, App. 10/10/72)

SEC. 24A.14. RECERTIFICATION OF INCOME UNDER CONTRACT. The rent supplement contract shall provide that a recertification of income shall be obtained by the housing owner each year from the date the original certificate of eligibility was issued. Provision shall be included for adjusting payments to reflect income changes shown by the recertification. (Added by Ord. 290-72, App. 10/10/72)

SEC. 24A.15. HARDSHIP CASES. Where a tenant's income has decreased due to illness, loss of job, or other hardship beyond his or her control, the Mayor may grant a temporary increase in rent supplement payments. (Added by Ord. 290-72, App. 10/10/72)

SEC. 24A.16. TENANT OCCUPANCY LIMITATIONS. Qualified tenants shall not be permitted to occupy units larger than the Mayor determines necessary for their needs. (Added by Ord. 290-72, App. 10/10/72)

SEC. 24A.17. FORM OF LEASE. (a) **Lease form.** Qualified tenants shall be required to execute a lease in a form approved by the Mayor.

(b) **Special lease provisions.** The lease shall contain the following special provisions:

(1) A provision obligating the tenant to report immediately to the housing owner any increase in income which results in a monthly income of four or more times the full monthly rental for the housing unit.

(2) A provision obligating the tenant to reimburse the Mayor for any rent supplement payments made by the Mayor during a period when the tenant's income had increased to a point where rent supplement payments should have been terminated but were not terminated because of the tenant's failure to report the increase to the housing owner. (Added by Ord. 290-72, App. 10/10/72)

SEC. 24A.18. HOUSING OWNER'S OBLIGATION UNDER CONTRACT TO REPORT TENANT INCOME INCREASE. (a) The rent supplement contract shall contain a provision obligating the housing owner to immediately notify the Mayor upon receiving a report from a tenant of an increase in the tenant's income, resulting in a monthly income of four or more times the full monthly rental for the housing unit. The contract shall also obligate the housing owner, upon failing to notify the Mayor when a report of such increase in income is received from a tenant, to reimburse the Mayor for any rent supplement payments made during the period when the tenant is receiving the increased income.

(b) In selecting qualified tenants to occupy a local rent supplement unit, the owner shall agree to grant a first priority for occupancy to households displaced by the Yerba Buena Center Redevelopment Project, provided such potential tenants make timely application for admission. (Added by Ord. 290-72, App. 10/10/72)

SEC. 24A.19. CHANGE IN TENANT INCOME STATUS. Appropriate adjustments will be made in rent supplement payments to reflect income changes shown by the annual tenant income recertification. Rent supplement payments will be discontinued when it is determined by the Mayor that 25 percent of the tenant's income is sufficient to pay the full amount of the rent for the unit occupied by the tenant. Where a tenant is no longer entitled to rent supplement payments, he or she may continue to occupy the unit provided he or she pays the full amount of the rent. (Added by Ord. 290-72, App. 10/10/72)

SEC. 24A.20. RULES AND REGULATIONS BY MAYOR. The Mayor is hereby authorized to adopt rules and regulations supplemental to this Chapter and not in conflict therewith, said rules and regulations to become effective 10 days after the Mayor causes their publication in a newspaper of general circulation within the City and County of San Francisco. (Added by Ord. 290-72, App. 10/10/72)

SEC. 24A.21. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter or any part thereof is, for any reason, held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more section, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective. (Added by Ord. 290-72, App. 10/10/72)

CHAPTER 24B**RELOCATION APPEALS BOARD**

Sec. 24B.1.	Establishment; Appointment; Terms; Staff; Funding.
Sec. 24B.2.	Scope of Ordinance.
Sec. 24B.3.	Time and Place of Meeting.
Sec. 24B.4.	Notice of Meeting.
Sec. 24B.5.	Quorum.
Sec. 24B.6.	Powers and Duties.
Sec. 24B.7.	Adjustment and Settlement of Complaints.
Sec. 24B.8.	Individual Remedies.
Sec. 24B.9.	Repeal.
Sec. 24B.10.	Public Meetings.
Sec. 24B.11.	Severability.

SEC. 24B.1. ESTABLISHMENT; APPOINTMENT; TERMS; STAFF; FUNDING. (a) There is hereby established a board to be known as the San Francisco Relocation Appeals Board (hereinafter called "Board") consisting of five members, to be appointed by the Mayor and subject to the approval of the Board of Supervisors.

(b) One of the members who is first appointed shall be designated to serve for a term of one year; two for two years; and two for three years from the date of their appointments. Thereafter, members shall be appointed as aforesaid for a term of office of three years, except that all of the vacancies occurring during a term shall be filled for the unexpired term. A member shall hold office until a successor has been appointed.

(c) The Board shall elect a president from among its members. The term of office as President of the Board shall be for the calendar year or for the portion thereof remaining after each such president is elected.

(d) The position of Executive Secretary to the Board shall be held by, and will be a primary responsibility of, the Special Assistant for Housing and Relocation. All other staff personnel of the Board shall be under the immediate direction and supervision of the Executive Secretary.

(e) The Board of Supervisors shall provide funds to pay for staff personnel, services and facilities as may be reasonably necessary to enable the Board to exercise its powers and perform its duties under this ordinance.

(f) The members of the Board shall serve without compensation; but each of the members shall be reimbursed for necessary expenses incurred in performance of duties, but not to exceed \$15 per meeting and \$45 per month. (Added by Ord. 333-72, App. 11/14/72)

SEC. 24B.2. SCOPE OF ORDINANCE. This ordinance applies to appeals taken regarding individuals or families who are being, or have been, forced to relocate their homes or businesses by public action within the City and County of San Francisco by the City and County or any agency of the City and County of San

San Francisco. Nothing in this ordinance, however, shall be interpreted or applied so as to create any power or duty in conflict with the pre-emptive effect of any federal or state law. (Added by Ord. 333-72, App. 11/14/72)

SEC. 24B.3. TIME AND PLACE OF MEETING. The Board shall meet at least once a month. The time and place of meetings shall be determined by rules adopted by the Board. (Added by Ord. 333-72, App. 11/14/72)

SEC. 24B.4. NOTICE OF MEETING. The members shall be notified of the time and place of meeting not less than 24 hours prior to said meeting. (Added by Ord. 333-72, App. 11/14/72)

SEC. 24B.5. QUORUM. A quorum shall consist of a simple majority of the total Board members. No action may be taken by the Board at any meeting attended by less than the quorum. A decision by the Board shall require a simple majority of those members attending a meeting or hearing. (Added by Ord. 333-72, App. 11/14/72)

SEC. 24B.6. POWERS AND DUTIES. In addition to the other powers and duties set forth in this ordinance, the Board shall have the power to:

(a) Study, investigate and hold hearings on grievances and disputes arising between displacing agency or any agency responsible for providing relocation services, and a relocatee who is dissatisfied with the relocation services;

(b) Require agencies to investigate grievances upon request of the Board and submit reports of investigations to the Board;

(c) Mediate disputes between displacing agency or agency responsible for providing relocation services and aggrieved party when requested to do so by aggrieved party; and

(d) Issue rules and regulations for the conduct of its own affairs. (Added by Ord. 333-72, App. 11/14/72)

SEC. 24B.7. ADJUSTMENT AND SETTLEMENT OF COMPLAINTS. (a) Upon the filing with the Board of a signed complaint, specifying the nature of the grievance, the displacing agency and/or agency responsible for providing relocation services and the address to which notices may be sent, the Secretary shall notify said agency or agencies of the complaint and request said agency or agencies to submit a report to the Board within 15 days. An additional 15-day period may be granted by the Executive Secretary or President if necessary for the agency to complete its report. The Executive Secretary may attempt to resolve the complaint by conference, conciliation, persuasion or other means, shall maintain records of such attempts and shall submit such records and reports to the Board in accordance with said Board's wishes. If the aggrieved party is dissatisfied with any solution proposed by the Secretary, said party may request in writing that the matter be heard by the Board forthwith. Thereupon the Secretary shall set the matter for hearing by the Board and in writing notify the aggrieved party and the agency or agencies involved of the time and place of said hearing.

(b) Following the Secretary's investigation, provided attempts to resolve the complaint are unsuccessful, the complainant and agencies involved shall be notified of the time and place of hearing by mail. The date fixed for the hearing shall be not less than five days from the date of notice thereof. The hearing shall be informal and the complainant shall be entitled to bring counsel, witness and documentation. The Board's decision will be based on the complainant and any related evidence presented.

(c) If the Board determines that the complaint is unjustified or unsubstantiated, or that there is insufficient or inadequate basis for the complaint, the complaint shall be dismissed and the complainant shall be notified of this action by certified mail. Such notice shall also report the reasons for the dismissal.

(d) Where the Board determines that the complaint is well founded, the Board shall notify the displacing agency of its decision and make recommendation for the settlement of the dispute, giving the reasons therefor. The displacing agency or agency responsible for providing relocation services shall comply with the recommendation to the maximum extent permitted by law and governmental regulations. The complainant will be notified of the decision of the Board. (Added by Ord. 333-72, App. 11/14/72)

SEC. 24B.8. INDIVIDUAL REMEDIES. Nothing in this ordinance or provisions thereof shall be construed as granting to an aggrieved party any right to pursue a civil action against the City and County of San Francisco or officer, employee, agency or representative thereof. (Added by Ord. 333-72, App. 11/14/72)

SEC. 24B.9. REPEAL. Any ordinance or part of any ordinance conflicting with the provisions of this ordinance hereby is repealed to the extent of such conflict. (Added by Ord. 333-72, App. 11/14/72)

SEC. 24B.10. PUBLIC MEETINGS. All meetings of the Board shall be public. (Added by Ord. 333-72, App. 11/14/72)

SEC. 24B.11. SEVERABILITY. If any part or provision of this ordinance, or application thereof, to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end the provisions of this ordinance are severable. (Added by Ord. 333-72, App. 11/14/72)



CHAPTER 25**STREET LIGHTING**

- Sec. 25.1. Underground Street Lighting Facilities to be Shown on Plans, Etc., for New Streets, Subdivisions.
- Sec. 25.2. Inclusion of Street Lighting in Plans, Etc., for Street Openings and Improvements.
- Sec. 25.3. Cost of Underground Facilities in New Streets and New Subdivisions.
- Sec. 25.4. Cost of Facilities in Work Done by City for Street Improvements.
- Sec. 25.5. When Facilities Become City and County Property.
- Sec. 25.6. Utilities Commission to Determine Street Lighting Specifications.

SEC. 25.1. UNDERGROUND STREET LIGHTING FACILITIES TO BE SHOWN ON PLANS, ETC., FOR NEW STREETS, SUBDIVISIONS. The Director of Public Works shall require that underground street lighting facilities, including standards, all associated wires, cables, conduits, junction boxes, services, and all connections therewith satisfactory to the Public Utilities Commission, be included in all plans, maps, plats and specifications, for the opening of new streets, tracts, districts or subdivisions, except when arrangements have been made by the Public Utilities Commission for installation of adequate overhead street lighting facilities on utility poles. (Ord. No. 168-58, Sec. 1)

SEC. 25.2. INCLUSION OF STREET LIGHTING IN PLANS, ETC., FOR STREET OPENINGS AND IMPROVEMENTS. The Director of Public Works shall include provision for street lighting in a manner satisfactory to the Public Utilities Commission in all plans, maps, plats and specifications for street openings and improvements made by the City and County. (Bill No. 395, Ord. No. 15.0611 (C.S.), Sec. 2)

SEC. 25.3. COST OF UNDERGROUND FACILITIES IN NEW STREETS AND NEW SUBDIVISIONS. The cost of underground street lighting facilities in new streets or new subdivisions shall be borne by the person, assessment district or others paying for the grading, paving, sidewalks and other construction necessary to open the street. (Ord. No. 168-58, Sec. 1)

SEC. 25.4. COST OF FACILITIES IN WORK DONE BY CITY FOR STREET IMPROVEMENTS. Money to cover the cost of street lighting facilities associated with work being done by the City and County shall be included in the fund provided for the street improvement. (Bill No. 395, Ord. No. 15.0611 (C.S.), Sec. 4)

SEC. 25.5. WHEN FACILITIES BECOME CITY AND COUNTY PROPERTY. All underground street lighting facilities, including but not limited to street lighting standards and all associated wires, cables, conduits, junction boxes,

services and all connections therewith, in new streets, tracts or subdivisions opened by individuals, firms, corporations or assessment districts, shall become the property of the City and County on final completion and acceptance of the work. (Ord. No. 168-58, Sec. 1)

SEC. 25.6. UTILITIES COMMISSION TO DETERMINE STREET LIGHTING SPECIFICATIONS. The Public Utilities Commission shall determine the intensity of illumination, number and spacing of lighting facilities and other details necessary to secure satisfactory street lighting. (Ord. No. 9046 (1939), Sec. 14)

CHAPTER 27**WAR MEMORIAL**

Sec. 27.1.	"Trustees" Defined.
Sec. 27.2.	Powers of Trustees Subject to Charter.
Sec. 27.3.	Construction; Cost; Administration.
Sec. 27.3-1.	Management, Superintendence and Operation.
Sec. 27.4.	Acceptance of Gifts, Etc.; Special Fund.
Sec. 27.5.	Engagement of Employees.
Sec. 27.6.	Salaries.
Sec. 27.8.	Statement of Receipts and Disbursements.
Sec. 27.9.	Purchases of Materials and Supplies.

SEC. 27.1. "TRUSTEES" DEFINED. As used in this Chapter, the word "Trustees" shall mean the Board of Trustees of the War Memorial of the City and County.

SEC. 27.2. POWERS OF TRUSTEES SUBJECT TO CHARTER. The Board of Trustees of the War Memorial in exercising the powers granted to it under Section 3.610 of the Charter, relative to the construction, administration, management, superintendence and operation of the War Memorial of the City and County, shall do so subject to the provisions of this Chapter. (Ord. No. 8931 (N.S.), Sec. 1)

SEC. 27.3. CONSTRUCTION; COST; ADMINISTRATION. (a) The Trustees shall construct a building or buildings for a War Memorial on the real property located in the City and County bounded by Van Ness Avenue, Grove, Franklin and McAllister Streets. The cost of the memorial shall be borne out of, but not to exceed the total proceeds of the memorial hall bond issue, together with such other and further sums as may be now or hereafter available, including all interest received by the City and County on moneys in the fund, all of which are hereby appropriated for such purposes.

(b) As the sites described in the Agreement to Proceed with Construction of the San Francisco Performing Arts Center Concert Hall and Rehearsal Hall and Lease of Land, dated October 24, 1977 and amended May 22, 1980, between the City and County and the Sponsors of San Francisco Performing Arts Center, Inc. are accepted by the City and County; or on January 1, 1982, whichever occurs earlier, they and the facilities located thereon shall be subject to the War Memorial Trust and to the jurisdiction of the War Memorial Board of Trustees. The three sites described in this agreement include all of the real property bounded by Van Ness Avenue and Hayes, Franklin and Grove Streets.

(c) The Trustees of the War Memorial shall have charge of the construction, administration, management, superintendence and operation of the War Memorial and of the grounds set aside therefor, and all of its affairs, and may enter into contracts for such purposes. (Amended by Ord. 302-80, App. 6/27/80)

SEC. 27.3-1. MANAGEMENT, SUPERINTENDENCE AND OPERATION. The Trustees shall, subsequent to the construction of the War Memorial,

and during the construction thereof, administer, manage, superintend and operate the War Memorial and the grounds set aside therefor, and all of its affairs. (Ord. No. 8931 (N.S.), Sec. 3)

SEC. 27.4. ACCEPTANCE OF GIFTS, ETC.; SPECIAL FUND. No gifts, devises or bequests, other than unconditional gifts, devises and bequests of cash, shall be accepted by the City and County for the War Memorial without the consent of a majority of the Trustees present at a meeting of the Trustees. Such Trustees are hereby empowered to receive and accept any cash or property. Any gifts, devises or bequests received by the Trustees on behalf of the City and County for any purposes connected with the War Memorial, or incident thereto, shall be set aside in a special fund for the use and benefit of the War Memorial. (Ord. No. 8931 (N.S.), Sec. 4)

SEC. 27.5. ENGAGEMENT OF EMPLOYEES. The Trustees shall engage such employees, bonded or otherwise, as may be necessary for the conduct of the property and affairs of the War Memorial. (Ord. No. 8931 (N.S.), Sec. 5)

SEC. 27.6. SALARIES. The salaries, wages and compensation of the Managing Director and Secretary of the War Memorial and of all other employees shall be subject to standardization as provided in Section 8.401 of the Charter. Pending the standardization of wages, salary and compensation, there shall be paid to the employees at least the minimum entrance salary, wage or compensation paid for similar services by the City and County. If there are any positions or places or employment created by the Trustees not common with others in the government of the City and County, then the compensation to be paid to the employees shall be fixed by the Trustees. (Ord. No. 8931 (N.S.), Sec. 6)

SEC. 27.8. STATEMENT OF RECEIPTS AND DISBURSEMENTS. Upon the completion of the War Memorial, the Trustees shall cause to be filed a complete statement showing all receipts and disbursements of the Trustees and the same shall be open for inspection by the public in the office of the Controller. Such statement shall show the number of employees of the Trustees. (Ord. No. 8931 (N.S.), Sec. 8)

SEC. 27.9. PURCHASES OF MATERIALS AND SUPPLIES. Purchases of materials, supplies and equipment required by the Trustees shall be made in accordance with the provisions of Section 7.100 of the Charter; provided, however, that specifications may be prepared under the direction of the Trustees for all equipment required by the Trustees and for material or supplies peculiar to the War Memorial operations and not in common use in other departments of the City and County. The Trustees may designate the particular brand, kind or make of any equipment which may be necessary in the conduct of the War Memorial. (Ord. No. 8931 (N.S.), Sec. 9)

CHAPTER 28**MUSEUMS****ARTICLE I****SALE, EXCHANGE OR TRANSFER OF WORKS OF ART**

- Sec. 28.1. Authorization for Sale, Exchange or Transfer of Works of Art.
- Sec. 28.2. Exchange of Works of Art.
- Sec. 28.3. Public Auction.
- Sec. 28.4. If No Bids or Unsatisfactory Bids.
- Sec. 28.5. Disposition of Moneys Received for Sale of Works of Art.
- Sec. 28.6. Transfer of Works of Art.
- Sec. 28.7. Application of This Article to the Asian Art Commission.
- Sec. 28.8. Application of This Article to the San Francisco Airport Commission.

ARTICLE II**COMMITTEE OF ASIAN ART AND CULTURE**

- Sec. 28.10. Establishment of Committee.
- Sec. 28.11. Chair.
- Sec. 28.12. Government of Committee.
- Sec. 28.13. Authority, Function and Purposes.
- Sec. 28.14. Asian Art Commission.
- Sec. 28.15. Asian Art Museum of San Francisco.

ARTICLE I**SALE, EXCHANGE OR TRANSFER OF WORKS OF ART**

SEC. 28.1. AUTHORIZATION FOR SALE, EXCHANGE OR TRANSFER OF WORKS OF ART. When, in the judgment of the Board of Trustees of the Fine Arts Museums of San Francisco, works of art or other articles in the possession of the museums are no longer fit for exhibition purposes in said museums, such works of art or other articles may be sold, exchanged or transferred as hereinafter set forth. Such works of art or other articles to be sold, exchanged or transferred shall be catalogued, listed and described with reasonable certainty and a copy of such catalogue shall be furnished to the Purchaser. (Added by Ord. 144-64, App. 5/27/64; amended by Ord. 347-89, App. 10/4/89)

SEC. 28.2. EXCHANGE OF WORKS OF ART. The Board of Trustees may exchange such works of art or other articles for other works of art or other articles of equivalent value, each such exchange to be subject to the approval of the Purchaser. The said Trustees may execute and accept all deeds of conveyance necessary and proper to effect such exchange. (Added by Ord. 144-64, App. 5/27/64; amended by Ord. 347-89, App. 10/4/89)

SEC. 28.3. PUBLIC AUCTION. The said Trustees may, with the approval of the Purchaser of Supplies, cause said works of art or other articles to be sold at public auction to the highest and best bidder, and may contract with a licensed auctioneer for the purpose of conducting the sale or sales. The contract shall specify the compensation to be paid for the auctioneer's services and set forth the terms and conditions under which the sale or sales are to be conducted. Each such contract shall be approved by the Purchaser of Supplies.

The compensation to be paid the auctioneer shall not exceed the sum of 20 percent of the total amount realized on any sale and the compensation shall include all costs incurred by the auctioneer incident to said sale. All of said sales shall be for cash and all cash received by the auctioneer or other person making the sale shall be delivered to the Trustees immediately upon receipt thereof by said auctioneer or other person making the sale; provided, however, that the auctioneer may accept a deposit of 10 percent of the amount of the sale price of any work of art or other article sold upon acceptance of bid, the balance of the price to be paid within five days from the date of sale. No work of art or other article sold shall be delivered until the full price thereof is paid. Each auctioneer retained to conduct a sale shall furnish an adequate surety bond. (Added by Ord. 144-64, App. 5/27/64)

SEC. 28.4. IF NO BIDS OR UNSATISFACTORY BIDS. Should no bids be received, or if bids are received and rejected as unsatisfactory, the work of art or other article may thereafter be sold by informal private sale by the Trustees, with the approval of the Purchaser of Supplies; provided, that works of art or other articles on which bids have been rejected shall not thereafter be sold for amounts less than the amount of the high bid which was received. (Added by Ord. 144-64, App. 5/27/64)

SEC. 28.5. DISPOSITION OF MONEYS RECEIVED FOR SALE OF WORKS OF ART. All moneys received from the sale of any work of art or other article sold pursuant to the provisions of this Article shall be placed in the trust fund of the Fine Arts Museums of San Francisco. Deposits in said trust fund shall be under the jurisdiction of the Board of Trustees. Said deposits in said trust fund shall be used for the purchase of other works of art and other articles to be exhibited in the Fine Arts Museums of San Francisco. (Added by Ord. 144-64, App. 5/27/64; amended by Ord. 347-89, App. 10/4/89)

SEC. 28.6. TRANSFER OF WORKS OF ART. (a) The collections of the Fine Arts Museums of San Francisco contain certain objects which are no longer appropriate to the collections. Many such objects are of scientific, social, cultural or historic value, but of little monetary value and therefore not appropriate for sale or exchange. The Board of Trustees nonetheless has a duty of care towards these objects and must expend funds for the storage and conservation of the items. It is in the interest of the City and County of San Francisco that these objects, under appropriate circumstances, be transferred to other public and nonprofit institutions for preservation, study and display, thereby relieving the City of the responsibility and expense of storing and preserving these objects.

(b) The Board of Trustees may transfer title to a work of art or other article in the Fine Arts Museums' collections to another public or nonprofit institution when the transfer is in the public interest. A transfer to another institution is deemed to be in the public interest where the Board of Trustees makes the following findings:

(1) The object is no longer appropriate to the Fine Arts Museums' collections; and

(2) The scientific, social, cultural and/or historical value of the object outweighs its monetary value; and

(3) The object is more likely to be preserved, studied and available to the public if it is transferred to the recipient institution than if it remains with the Fine Arts Museums of San Francisco or is sold.

(c) Where it is found to be in the public interest to transfer any object which is of historical or other interest to San Francisco, the object will first be offered to a San Francisco public or nonprofit institution.

(d) No work of art or other article in the Fine Arts Museums' collections may be transferred to another institution unless the transfer is approved by a majority of the members of the Board of Trustees. The Trustees may execute all deeds of conveyance necessary and proper to effect such transfer. (Added by Ord. 347-89, App. 10/4/89)

SEC. 28.7. APPLICATION OF THIS ARTICLE TO THE ASIAN ART COMMISSION. The powers and duties set forth in Sections 28.1 through 28.6 authorizing the Board of Trustees of the Fine Arts Museums to sell, exchange or transfer works of art or other articles shall also be applicable to the Asian Art Museum with respect to works of art or other articles in its possession. Funds from the sale of objects in the Asian Art Museum's possession shall be placed in the general art acquisition fund of the Asian Art Museum and shall be under the jurisdiction of the Asian Art Commission. (Added by Ord. 291-98, App. 9/30/98)

SEC. 28.8. APPLICATION OF THIS ARTICLE TO THE SAN FRANCISCO AIRPORT COMMISSION. The powers and duties set forth in Sections 28.1 through 28.6 authorizing the Board of Trustees of the Fine Arts Museums to sell, exchange or transfer works of art or other articles shall also be applicable to the San Francisco Airport Commission with respect to objects in its possession. Funds from the sale of objects in the Airport Museum's possession shall be placed in the Airport Museum's trust fund within the Airport Revenue Fund and shall be under the jurisdiction of the Airport Commission. Nothing in this Section is intended to limit or abridge the Arts Commission's authority with respect to works of art as set forth in Charter Section 5.103 and Administrative Code Section 2A.150. (Added by Ord. 291-98, App. 9/30/98)

ARTICLE II

COMMITTEE OF ASIAN ART AND CULTURE

SEC. 28.10. ESTABLISHMENT OF COMMITTEE. There is hereby established as a part of the government of the City and County of San Francisco a committee to be known as the Committee of Asian Art and Culture.

The Committee shall consist of 27 members to be appointed by the Mayor. Nine of the members who are first appointed shall be designated to serve for terms of one year; nine for two years; and nine for three years from the dates of their

appointment. Thereafter, members shall be appointed by the Mayor for a term of office of three years except that all of the vacancies occurring during a term shall be filled for the unexpired term. A member shall hold office until a successor has been appointed and qualified. The members of the Committee are hereby designated as officers of the City and County but they shall serve without compensation. Committee members need not be residents of the City and County.

In filling vacancies in office occurring on the Committee by reason of resignation, expiration of term, or other cause, the Mayor shall solicit nominations from the Committee and shall give due consideration to such nominees in filling such vacancies to the end that members of the Committee shall be substantially representative of the fields of Asian art and culture by reason of their knowledge, experience, education, interest or activity therein. (Added by Ord. 192-69, App. 6/20/69)

SEC. 28.11. CHAIR. The Mayor shall designate a member of the Committee to serve as its first chair for a term of two years; and, thereafter, the Committee shall elect a chair from among its members. The term of office of the chair shall be for two years. Chairs of the Committee may serve more than one term of office. (Added by Ord. 192-69, App. 6/20/69)

SEC. 28.12. GOVERNMENT OF COMMITTEE. The Committee shall adopt bylaws providing for the conduct of its affairs and the distribution and performance of its business. Such bylaws shall provide for the appointment of an executive committee and for its authority to act on behalf of the whole committee and for such other subcommittees as the whole committee may deem desirable. (Added by Ord. 192-69, App. 6/20/69)

SEC. 28.13. AUTHORITY, FUNCTION AND PURPOSES. It shall be the authority, function and purpose of the Committee to:

(a) Develop and administer a center of Asian art and culture in the City and County of San Francisco;

(b) Create a charitable foundation or other legal entity for the purposes of developing the center of Asian art and culture;

(c) Collaborate with Asian art societies, universities and other institutions and organizations interested in Asian art, languages, religion, history, philosophy and culture in order to extend and deepen the activities necessary to establish the center of Asian art and culture as the outstanding center of Asian art and culture in the Western world;

(d) Promote, establish and develop an acquisition fund to be expended for the acquisition of paintings, sculpture, bronzes, ceramics and other works of Asian art to amplify and to develop the City and County collections of Asian art; and

(e) Control and manage the City and County collections of Asian art with the Avery Brundage Collection as the nucleus, as provided in the second supplemental agreement with Avery Brundage, Mrs. Elizabeth D. Brundage and the Avery Brundage Foundation, and in accordance with the management agreement to be entered into between the Committee and the Board of Trustees of the M. H. de Young Memorial Museum, a copy of which agreement is on file with the Clerk of this Board of Supervisors. (Added by Ord. 192-69, App. 6/20/69)

SEC. 28.14. ASIAN ART COMMISSION. The Committee of Asian Art and Culture established by this Article shall hereafter be officially known and designated as the Asian Art Commission, which commission shall have and exercise the same authority, functions and purposes as set forth in this Article for the Committee of Asian Art and Culture. (Added by Ord. 316-71, App. 12/23/71)

SEC. 28.15. ASIAN ART MUSEUM OF SAN FRANCISCO. That institution now administered by the Asian Art Commission and now officially known and designated as the Center of Asian Art and Culture shall hereafter be officially known and designated as the Asian Art Museum of San Francisco and all references in the San Francisco Administrative Code or any other ordinance or resolution of the City and County of San Francisco to the Center of Asian Art and Culture shall mean the Asian Art Museum of San Francisco. (Added by Ord. 375-73, App. 9/26/73)

CHAPTER 30**LESBIAN, GAY, BISEXUAL, TRANSGENDER, QUEER AND QUESTIONING YOUTH TASK FORCE**

- Sec. 30.01. Lesbian, Gay, Bisexual, Transgender, Queer and Questioning Youth Task Force.
Sec. 30.02. Report.
Sec. 30.03. Sunset Clause.

SEC. 30.01. LESBIAN, GAY, BISEXUAL, TRANSGENDER, QUEER AND QUESTIONING YOUTH TASK FORCE. (a) There is hereby established a Lesbian, Gay, Bisexual, Transgender, Queer and Questioning Youth Task Force (hereinafter referred to as "Task Force").

(b) The membership of the Task Force shall consist of 15 voting members designated as follows: six members designated by the Youth Commission; three members designated by the San Francisco Human Rights Commission; five members appointed by the Board of Supervisors; and one member appointed by the Mayor. In addition, the Task Force shall also consist of six nonvoting members designated by the department head, or her designee from the following City agencies: the Department of Public Health; the Department of Human Services; the Department of Recreation and Parks; the Juvenile Probation Department; the San Francisco Police Department; and the Mayor's Office of Children, Youth and Families. The San Francisco Unified School District may also designate one nonvoting representative to serve on the Task Force.

A majority of the voting members should be under the age of 25. The appointing authorities shall also place particular emphasis on encouraging membership on the Task Force by youth 18 years and under. All appointments should be completed within 60 days after enactment of this ordinance.

(c) The purposes of the Task Force are:

(1) To prioritize the recommendations and develop a plan for specific City departments to implement various parts of the 1996 San Francisco Human Rights Commission's recommendations regarding the needs of Lesbian, Gay, Bisexual, Transgender, Queer and Questioning Youth (hereinafter referred to as "recommendations");

(2) To recommend to the Board of Supervisors the adoption of resolutions and/or legislation to ensure the full implementation of these recommendations by City departments;

(3) To review the progress of the implementation of the recommendations by City departments; and

(4) To provide advice and assistance to City departments with respect to supportive services and programs for lesbian, gay, bisexual, transgender, queer and questioning youth.

(d) In performing its duties, the Task Force shall hold hearings, and request department officials to appear and testify.

(e) At the initial meeting of the Task Force, the Task Force members shall select such officers as it deems necessary. The Task Force shall establish rules and regulations for its own organization and procedure and shall meet when necessary as

determined by the Task Force. All meetings, except as provided by general law, shall be open to the public.

(f) In the event a vacancy in Task Force membership occurs, the successor to the vacant position shall be selected in the same manner used to select the previous occupant of the position, consistent with subparagraph (b).

(g) Staff assigned to the Youth Commission and the Human Rights Commission shall provide staff support and resources for the Task Force. (Added by Ord. 166-98, App. 5/21/98)

SEC. 30.02. REPORT. The Task Force shall submit to the Board of Supervisors a written report regarding the results of its investigation analyzing data and findings regarding the implementation of the recommendations by City departments, including City services and programs provided to lesbian, gay, bisexual, transgender, queer and questioning youth, by June 30, 1999. The report shall indicate those departments which have not implemented the recommendations, and recommend appropriate action to be taken by the Board of Supervisors. (Added by Ord. 166-98, App. 5/21/98)

SEC. 30.03. SUNSET CLAUSE. The provisions of this ordinance and the operation of the Task Force shall expire on June 30, 1999. (Added by Ord. 166-98, App. 5/21/98)

CHAPTER 31
ENVIRONMENTAL QUALITY

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ARTICLE I IN GENERAL

SEC. 31.01. AUTHORITY AND MANDATE. (a) This Chapter is adopted pursuant to the California Environmental Quality Act (hereinafter referred to as CEQA), Public Resources Code Sections 21000 and following, as amended; and pursuant to the Guidelines for Implementation of the California Environmental Quality Act, as amended, originally certified and adopted by the Secretary of the California Resources Agency on February 3, 1973 and appearing as Title 14, Division 6, Chapter 3 of the California Administrative Code (hereinafter referred to as the State Guidelines). CEQA and the State Guidelines provide for the orderly evaluation of projects and preparation of environmental documents, and require adoption of corresponding objectives, criteria and procedures by local agencies.

(b) Any amendments to CEQA or the State Guidelines, adopted subsequent to the effective date of this Chapter, shall not invalidate any provision of the Chapter. Any amendments to CEQA or the State Guidelines that may be inconsistent with this Chapter shall govern until such time as this Chapter may be amended to remove such inconsistency.

(c) This Chapter shall govern in relation to all other ordinances of the City and County of San Francisco and rules and regulations pursuant thereto. In the event of any inconsistency concerning either public or private actions, the provisions of this Chapter shall prevail. (Amended by Ord. 92-77, App. 3/18/77)

SEC. 31.02. OBJECTIVES. (a) CEQA and the State Guidelines require that all local agencies shall prepare, or cause to be prepared by contract, and certify the completion of an environmental impact report on any project they intend to carry out or approve which may have a significant effect on the environment. This report must be considered by the local agency prior to its decision as to whether to carry out or approve the project.

(b) An environmental impact report is an informational document providing a detailed statement of environmental effects and considerations for use by public decision-makers in considering a project. Such a report also informs the general public, and provides an opportunity for public participation and for comments by other interested public agencies.

(c) The findings of an environmental impact report may be a major consideration in the exercise of discretion over a project, and may significantly influence the decision of a local agency, but do not necessarily require a decision either to carry out or approve, or not to carry out or approve, the project. CEQA and the State Guidelines confirm the discretion of local agencies with regard to projects under their own jurisdiction. Projects should not be approved as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects. In the event that specific economic, social or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant environmental effects thereof. (Amended by Ord. 92-77, App. 3/18/77)

SEC. 31.03. POLICIES. (a) State-wide policies with respect to long-term protection, rehabilitation and enhancement of the total environment, involving responsibilities for all citizens and all government agencies, are amply stated in CEQA and in the State Guidelines. It is the intention of the City and County of San Francisco to implement the State law through use of those policies as a guiding criterion in decisions made under its authority.

(b) It is also the policy of CEQA and the State Guidelines, and of the City and County, to use the impact report requirement to bring environmental considerations to bear at an early stage of the planning process, and to avoid unnecessary delays or undue complexity of review. Simplicity and directness are to be emphasized, with the type of review related to the depth and variety of environmental issues raised by a project, so that government and public concern may be focused upon environmental effects of true significance. (Added by Ord. 134-73, App. 4/11/73)

SEC. 31.04. SCOPE OF REQUIREMENTS. (a) This Chapter adapts the State Guidelines for use by the City and County of San Francisco. The emphasis of this Chapter is upon procedures, which are expressly left for determination by local agencies, consistent with the State Guidelines.

(b) The State Guidelines are not repeated here, but are expressly incorporated herein by reference as though fully set forth and are supplementary to this Chapter, particularly with respect to definitions, criteria for determining significant effects on the environment, and requirements for content of environmental impact reports. Copies of the State Guidelines may be obtained from the Documents Section, California Department of General Services. (Amended by Ord. 166-74, App. 4/11/74)

SEC. 31.05. RESPONSIBILITY. (a) The City and County of San Francisco and all its officials, boards, commissions, departments, bureaus and offices shall constitute a single "local agency," "public agency" or "lead agency" as those terms are used in CEQA and the State Guidelines; except that the San Francisco Redevelopment Agency shall be a separate "local agency" or "public agency" as specified in CEQA. With regard to any redevelopment project, the City and County and not the Redevelopment Agency shall be the "lead agency."

(b) The administrative actions required by the State Guidelines with respect to the preparation of environmental documents, giving of notice and other activities, as specified in this Chapter, shall be performed by the San Francisco Department of City Planning, acting for the City and County.

(c) All projects that are not excluded or categorically exempt from CEQA and the State Guidelines shall be referred to the Department of City Planning. All other officials, boards, commissions, departments, bureaus and offices of the City and County shall cooperate with the Department of City Planning in the exercise of its responsibilities, and shall supply necessary information, consultations and comments.

(d) The Department of City Planning shall have the same responsibilities as aforesaid when more than one public agency is to carry out or approve a project and the City and County of San Francisco is the "lead agency" as that term is used in CEQA and the State Guidelines. In addition, when the City and County is to carry out or approve a project and some other public agency is the "lead agency," and where projects are to be carried out or approved by the State and Federal governments within the City and County, the Department of City Planning shall provide consultations and comments for the City and County to the other government agencies when appropriate.

(e) To the extent feasible, the Department of City Planning shall combine the evaluation of projects, preparation of environmental impact reports and conduct of hearings with other planning processes; and shall coordinate environmental review with the Capital Improvement Program, the San Francisco Master Plan and the City Planning Code. Where various notices are required by this Chapter to be sent to the board, commission or department that is to carry out or approve a project, such requirement shall not include notice to the Department of City Planning or City Planning Commission.

(f) Except where the City Planning Commission is specifically identified in this Chapter, the actions of the Department of City Planning shall be taken by the department staff through the Director of Planning. Where adoption of administrative regulations by resolution of the City Planning Commission after public hearing is specified herein, there shall be notice by publication in a newspaper of general circulation in the City and County at least 20 days prior to the hearing and by posting in the offices of the Department of City Planning, with copies of the proposed regulations sent to the Board of Supervisors and any other affected boards, commissions and departments of the City and County. The decision of the Commission in adopting administrative regulations shall be final. The Department of City Planning may adopt necessary forms, checklists and processing guidelines without a public hearing. (Amended by Ord. 166-74, App. 4/11/74)

ARTICLE II

PROJECTS COVERED

SEC. 31.11. COVERAGE OF STATE LAW. (a) Three types of projects may be covered by CEQA and the State Guidelines, as follows:

(1) Activities directly undertaken by any public agency.

(2) Activities undertaken by a person which are supported in whole or in part through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.

(3) Activities involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

(b) Some such projects are excluded or categorically exempt from CEQA and the State Guidelines, as indicated in Sections 31.12 through 31.17 below. In the event of such exclusion or categorical exemption, the State law does not apply and no initial evaluation, negative declaration or environmental impact report is required.

(c) Projects that are not excluded or categorically exempt may or may not be covered by CEQA and the State Guidelines. If, after the initial evaluation described in Section 31.23 below, it is determined that the project could not have a significant effect on the environment, a negative declaration must be filed. In that event, the State law does not require preparation of an environmental impact report.

(d) All other projects are subject to CEQA and the State Guidelines and must have environmental impact reports prepared. Such preparation must occur before the decision by the City and County to carry out or approve the project. For the purpose of determining when such preparation must occur pursuant to this Chapter, the time of the decision to carry out or approve a project shall be as follows:

(1) In cases in which the Board of Supervisors must appropriate money for the carrying out of the project, or appropriate money for City and County assistance to the carrying out of the project, the decision by the Board of Supervisors to proceed with the carrying out of the project, beyond the stage of feasibility and planning studies as described in Section 31.16 of this Chapter, shall constitute the decision to carry out or approve the project. Such decision may occur subsequent to the appropriation of money for the project, but no funds other than funds for such feasibility and planning studies shall be expended prior to re-appropriation of funds by the Board of Supervisors approving the carrying out of the project.

(2) In cases in which the Board of Supervisors must decide upon a project that will not involve appropriation of money by said Board, the decision by said Board shall constitute the decision to carry out or approve the project.

(3) In cases in which City and County funding or assistance occurs through use of undesignated funds or funds received through gifts or bequests, the decision to expend such funds for the project shall constitute the decision to carry out or approve the project.

(4) In cases involving a City and County lease, permit, license, certificate, or other entitlement for use, the first discretionary decision to approve, to issue, or to commit the City and County to approve or issue, such lease, permit, license, certificate, or other entitlement for use shall constitute the decision to carry out or approve the project. (Amended by Ord. 92-77, App. 3/18/77)

SEC. 31.12. EXCLUSION OF NON-PHYSICAL PROJECTS. (a) The "environment" is defined by CEQA and the State Guidelines as the physical conditions existing within the area which will be affected by a proposed project. Therefore, projects that will have no physical effects are excluded from the State law. Such projects are not subject to the requirements of this Chapter. (Amended by Ord. 166-74, App. 4/11/74)

SEC. 31.13. EXCLUSION OF MINISTERIAL PROJECTS. (a) Under the provisions of CEQA, discretionary projects are covered while ministerial projects are excluded. The State Guidelines contain definitions of "discretionary" and "ministerial" but do not attempt to enumerate all projects in each category, leaving such designation to local determination. Ministerial projects, once designated according to Section 31.14 below, shall not be subject to the requirements of this Chapter.

(b) The issuance of any permit as to which a discretionary review power exists under Section 26 of Part III, San Francisco Municipal Code, shall be deemed to be a discretionary project. If a negative declaration or environmental impact report has been prepared for such a project, such document shall be considered in any exercise of the discretionary review power, but the existence of such a document shall not in itself compel or prevent the exercise of such power, nor necessarily require a decision either to carry out or approve, or not to carry out or approve, the project. (Added by Ord. 134-73, App. 4/11/73)

SEC. 31.14. LISTING OF NON-PHYSICAL AND MINISTERIAL PROJECTS. (a) The Department of City Planning shall maintain a listing of types of nonphysical and ministerial projects excluded from CEQA and the State Guidelines. Such listing shall be modified over time as the status of types of projects may change under applicable laws, ordinances, rules and regulations. The listing shall not be considered totally inclusive, and may at times require refinement on a case-by-case basis.

(b) Such listing of excluded projects and modifications thereto shall be kept posted in the offices of the Department of City Planning, and copies thereof shall be sent to the Board of Supervisors and all other affected boards, commissions and departments of the City and County. Any person who may deem any portion of such listing to be incorrect may at any time appeal such portion of the listing to the City Planning Commission specifying the grounds for such appeal, and the Commission shall hold a public hearing thereon according to the procedure specified in Section 31.05 (f) of this Chapter for adoption of administrative regulations. The Commission may affirm, modify or delete such portion of the listing, and the decision of the Commission shall be final. If so affirmed or modified, such portion of the listing shall not thereafter be appealable to the Commission on the same grounds. (Added by Ord. 134-73, App. 4/11/73)

SEC. 31.15. EXCLUSION OF EMERGENCY PROJECTS. (a) Certain emergency projects are excluded from CEQA and the State Guidelines. Such projects, as specified in CEQA and the State Guidelines, are not subject to the requirements of this Chapter. However, if such projects would be subject to CEQA and the State Guidelines in the absence of the emergency exclusion, their carrying out or approval shall be reported promptly to the Department of City Planning. (Added by Ord. 134-73, App. 4/11/73)

SEC. 31.16. EXCLUSION OF FEASIBILITY AND PLANNING STUDIES. (a) Feasibility and planning studies for possible future actions, the carrying out of which has not yet been approved, adopted or funded, are excluded from CEQA

and the State Guidelines. Such studies are not subject to the requirements of this Chapter. However, environmental factors shall be considered in the normal course of such studies. (Amended by Ord. 166-74, App. 4/11/74)

SEC. 31.17. CATEGORICAL EXEMPTIONS. (a) As required by CEQA, the Secretary of the California Resources Agency has determined in the State Guidelines that certain classes of projects do not have a significant effect on the environment and therefore are categorically exempt from CEQA. Each public agency must list those specific activities of the agency which fall within each such class, subject to the qualification that these lists must be consistent with both the letter and the intent expressed in the classes as specified in the State Guidelines. Projects which are categorically exempt are not subject to the requirements of this Chapter.

(b) The Department of City Planning shall maintain the required list of types of projects which are categorically exempt, and such list shall be kept posted in the offices of the department. Such list shall be kept up to date in accordance with any changes in the State Guidelines and any changes in the status of local projects. The initial list and any additions, deletions and modifications thereto shall be adopted as administrative regulations by resolution of the City Planning Commission after public hearing, according to the procedure set forth in Section 31.05 (f) of this Chapter.

(c) Provision is made in CEQA and the State Guidelines for public agencies to request additions, deletions and modifications to the classes of projects listed as categorically exempt in the State Guidelines. Any such requests shall be made by the City Planning Commission, after a public hearing thereon held according to the procedure specified in Section 31.05 (f) of this Chapter for adoption of administrative regulations.

(d) The listing of a type of project as categorically exempt shall not in itself necessarily require a decision either to carry out or approve, or not to carry out or approve, any individual project. CEQA and the State Guidelines confirm the discretion of local agencies with regard to projects under their own jurisdiction. (Added by Ord. 134-73, App. 4/11/73)

ARTICLE III

EVALUATIONS

SEC. 31.21. PROCEDURES FOR REVIEW OF PROJECTS. (a) The steps for review of projects pursuant to CEQA and the State Guidelines shall be as set forth in Sections 31.22 through 31.29 below. These provisions are primarily procedural.

(b) Provisions relating to objectives and criteria for review, when not fully set forth herein, shall be as prescribed by CEQA and the State Guidelines. (Added by Ord. 134-73, App. 4/11/73)

SEC. 31.22. DETERMINATION OF NEED FOR EVALUATION. (a) The board, commission or department that is to carry out or approve a project, or

the Department of City Planning as hereinafter provided, shall determine whether the project is excluded or categorically exempt from CEQA and the State Guidelines, according to Sections 31.12 through 31.17 of this Chapter. Such determination shall be made by the Department of City Planning for all projects with an estimated construction cost of over \$100,000 as defined by the San Francisco Building Code, and, for projects of lesser cost, upon request by the board, commission or department that is to carry out or approve the project. If the project is excluded or categorically exempt, no further evaluation shall be required by this Chapter.

(b) When a project has been determined by the Department of City Planning to be excluded or categorically exempt from CEQA and the State Guidelines, the Department of City Planning may issue a Certificate of Exemption from Environmental Review by posting a copy thereof in the offices of the Department, and by mailing copies thereof to the applicant and the board, commission or department that is to carry out or approve the project.

(c) All projects that are not excluded or categorically exempt shall be referred to the Department of City Planning, prior to the decision as to whether to carry out or approve the project, for an initial evaluation to establish whether an environmental impact report is required.

(d) In cases in which a project is to be carried out or approved by more than one public agency, it will be necessary to determine whether the City and County of San Francisco or some other public agency shall be the lead agency under CEQA and the State Guidelines with responsibility to evaluate the project. (Amended by Ord. 92-77, App. 3/18/77)

SEC. 31.23. INITIAL EVALUATION OF PROJECTS. (a) Upon receiving an application for a project, or upon referral of a project by the board, commission or department that is to carry out or approve the project, the Department of City Planning shall conduct an initial evaluation (initial study) to establish whether an environmental impact report is required. In the event it is clear at the outset that an environmental impact report is required, the Department may, with the consent of all parties involved, make an immediate determination and dispense with this initial evaluation.

(b) The initial evaluation shall determine whether the project may have a significant effect on the environment. The basic criteria for determination of significant effect shall be those set forth in CEQA and the State Guidelines. Supplementary criteria, consistent with those in CEQA and the State Guidelines, may be adopted as administrative regulations by resolution of the City Planning Commission after public hearing, according to the procedure set forth in Section 31.05 (f) of this Chapter. In determination of significant effect, consideration shall be given to objectives and policies of the San Francisco Master Plan. An EIR shall be prepared when there is serious public controversy concerning the environmental effect of a project. Controversy not related to an environmental issue shall not be cause for preparation of an EIR.

(c) The applicant or the board, commission or department that is to carry out or approve the project shall submit to the Department of City Planning such data and information as may be necessary for the initial evaluation. If such data and information are not submitted, work by the Department on the initial evaluation shall be suspended.

(d) During the initial evaluation, the Department City Planning may consult with any person having knowledge or interest concerning the project. In cases in which the project is to be carried out or approved by more than one public agency and the City and County of San Francisco is the lead agency, the Department shall consult with all other public agencies that are to carry out or approve the project.

(e) If a project is subject to the CEQA and the National Environmental Policy Act, an initial evaluation prepared pursuant to the National Environmental Policy Act may be used to satisfy the requirements of this Section.

(f) If the initial evaluation establishes that the project could not have a significant effect on the environment, a negative declaration shall be issued in accordance with Section 31.24 below, and no further evaluation shall be required by this Chapter. If the initial evaluation establishes that the project may have a significant effect on the environment, an environmental impact report shall be prepared in accordance with Sections 31.26 through 31.28 below. (Amended by Ord. 92-77, App. 3/18/77)

SEC. 31.24. NEGATIVE DECLARATIONS. (a) When a negative declaration is required, it shall be prepared by the Department of City Planning. The negative declaration shall describe the project proposed, state the finding that the project could not have a significant effect on the environment, and have attached to it a copy of the initial evaluation documenting reasons to support that finding. The negative declaration shall also indicate mitigation measures, if any, included in the project or avoid potentially significant effects.

(b) The Department of City Planning shall first prepare the negative declaration on a preliminary basis, and shall post a copy of the preliminary negative declaration in the offices of the Department and mail copies thereof to the applicant and the board, commission or department that is to carry out or approve the project.

(c) Notice of the preparation of such preliminary negative declaration shall thereupon be given by publication in a newspaper of general circulation in the City and County, and by mail to all organizations and individuals who have previously requested such notice.

(d) Within 10 days following the publication of such notice, any person may appeal the preliminary negative declaration to the City Planning Commission, specifying the grounds for such appeal.

(e) The City Planning Commission shall hold a public hearing on any such appeal within not less than five nor more than 20 days after filing of the appeal. Notice of such hearing shall be posted in the offices of the Department of City Planning, and shall be mailed to the appellant, to the applicant, to the board, commission or department that is to carry out or approve the project, and to any other person requesting such notice.

(f) After such hearing the City Planning Commission shall affirm the preliminary negative declaration if it finds that the project could not have a significant effect on the environment, and shall overrule the preliminary negative declaration and order preparation of an environmental impact report if it finds that the project may have a significant effect on the environment. The decision of the Commission either to affirm or to overrule shall be final. If in the judgment of the Commission

there is a substantial body of opinion that reasonably considers there will be a significant effect on the environment, the Commission shall overrule the preliminary negative declaration.

(g) If the preliminary negative declaration is not appealed as provided herein, or if it is affirmed on appeal, the negative declaration shall be made final, subject to any necessary modifications, and shall be deemed adopted and issued. Thereafter, the City and County may decide whether to carry out or approve the project. Before making its decision whether to carry out or approve the project, the decision-making body, or the appellant body on appeal, shall certify that it has reviewed and considered the information contained in the final negative declaration. The issuance of a negative declaration shall not in itself necessarily require a decision either to carry out or approve, or not to carry out or approve, the project. CEQA and the State Guidelines confirm the discretion of local agencies with regard to projects under their own jurisdiction.

(h) After the City and County has decided whether to carry out or approve the project, the Department of City Planning shall file a notice of determination with the county clerk or county or counties in which the project is to be located. Such notice shall describe the project proposed, shall indicate the decision of the City and County to carry out or approve, or not to carry out or approve, the project, and shall refer to the negative declaration issued, a copy of which shall be attached to and filed with the notice of determination. If the project requires discretionary approval from a State agency, the notice of determination shall also be filed with the Secretary for Resources. (Amended by Ord. 92-77, App. 3/18/77)

SEC. 31.25. DETERMINATIONS THAT ENVIRONMENTAL IMPACT REPORTS ARE REQUIRED. (a) If the Department of City Planning determines that a project may have a significant effect on the environment and that an environmental impact report is required, it shall give notice of such determination by publication in a newspaper of general circulation in the City and County, by posting in the offices of the Department, and by mail to the applicant, to the board, commission or department that is to carry out or approve the project and to all organizations and individuals who have previously requested such notice.

(b) Within 10 days following the mailing of such notice, the applicant or such board, commission or department may appeal such determination to the City Planning Commission, specifying the grounds for such appeal.

(c) The City Planning Commission shall hold a public hearing on any such appeal no more than 20 days after filing of the appeal. Notice of such hearing shall be given by publication in a newspaper of general circulation in the City and County at least 10 days prior to the hearing, and by mail to the applicant, to the board, commission or department that is to carry out or approve the project, and to any other person requesting such notice.

(d) After such hearing the City Planning Commission shall affirm the determination of the Department of City Planning if it finds that the project may have a significant effect on the environment, and shall overrule such determination and order issuance of a negative declaration if it finds that the project could not have a significant effect on the environment. The decision of the Commission either to affirm or to overrule shall be final. If in the judgment of the Commission there is a

substantial body of opinion that reasonably considers there will be a significant effect on the environment, the Commission shall affirm the determination of the Department.

(e) If the determination of the Department of City Planning is overruled by the City Planning Commission, the Department shall prepare a negative declaration in accordance with Section 31.24 above, and no further evaluation shall be required by this Chapter. The remaining provisions of Section 31.24 shall be followed, except that no further appeal to the Commission shall be permitted. (Amended by Ord. 92-77, App. 3/18/77)

SEC. 31.26. DRAFT ENVIRONMENTAL IMPACT REPORTS. (a) When an environmental impact report (EIR) is required, it shall be prepared by the Department of City Planning. The EIR shall at first be prepared as a draft report.

(b) The applicant or the board, commission or department that is to carry out or approve the project shall submit to the Department of City Planning such data and information as may be necessary to prepare the draft EIR. If such data and information are not submitted, work by the Department of City Planning on the draft EIR shall be suspended. The data and information submitted shall, if the Department of City Planning so requests, be in the form of all or a designated part or parts of the proposed draft EIR itself, although the Department of City Planning shall in any event make its own evaluation and analysis and exercise its independent judgment in preparation of the draft EIR for public review.

(c) During preparation of the draft EIR, the Department of City Planning may consult with any person having knowledge or interest concerning the project. If it has not already done so in accordance with Section 31.23(d) above, in cases in which the project is to be carried out or approved by more than one public agency, the Department shall consult with all other public agencies that are to carry out or approve the project.

(d) The draft EIR shall include a description of the project, a description of the environmental setting, a description and assessment of environmental effects of the project in proportion to their severity and probability of occurrence, and other elements, all as set forth in the State Guidelines. The Department of City Planning may establish more definitive requirements for report content, consistent with CEQA and the State Guidelines, in the course of developing report formats and instructions.

(e) The draft EIR may also include the energy impact possibilities and potential considerations set forth in State Guidelines, Appendix F, "Energy Conservation," if the Environmental Review Officer determines that one or several of them are applicable, appropriate and reasonable.

(f) When the draft EIR has been prepared in full, the Department of City Planning shall file a notice of completion of such draft with the Secretary of the California Resources Agency. Such notice shall describe the project proposed and its location, and shall state the address where copies of the draft EIR are available. A copy of such notice, or a separate notice containing the same information, shall thereupon be posted in the offices of the Department and mailed to the applicant and the board, commission or department that is to carry out or approve the project. A copy of the draft EIR shall be provided to the applicant and to such board, commission or department. (Amended by Ord. 20-81, App. 1/9/81; Ord. 354-95, App. 11/15/95)

SEC. 31.27. CONSULTATIONS AND COMMENTS. (a) Public agencies with jurisdiction by law, and persons with special expertise — (1) After filing a notice of completion with the Secretary of the California Resources Agency, the Department of City Planning shall send a copy of the draft EIR to each public agency which has jurisdiction by law with respect to the project, and may send copies to and consult with persons who have special expertise with respect to any environmental impact involved.

(2) In sending such copies, the Department of City Planning shall request comments on the draft EIR from such agencies and persons, with particular focus upon the sufficiency of the draft EIR in discussing possible effects on the environment, ways in which adverse effects might be minimized, and alternatives to the project.

(3) Each request for comments shall state that any comments must be returned within a certain time after the sending of the draft EIR, and if comments are not returned within that time it shall be assumed that the agency or person has no comment to make. The time limit shall normally be 30 days, but the Department of City Planning may allow a longer period for comments on projects of exceptional size or complexity. The Department may, upon the request of an agency or person from whom comments are sought, grant an extension of time of not more than 15 days beyond the original period, but such extension shall not interfere with the holding of any hearing on the draft EIR for which notice has already been given.

(4) The Department of City Planning shall maintain listings of public agencies with jurisdiction by law with respect to projects, and of persons with special expertise with respect to types of environmental impacts. The listing of persons with special expertise shall include personnel of the City and County.

(b) General public —

(1) Public participation, both formal and informal, shall be encouraged at all stages of review, and written comments shall be accepted at any time up to the conclusion of the public hearing described below on the draft EIR. The Department of City Planning may give public notice at any formal stage of the review process, beyond the notices required by this Chapter, in any manner it may deem appropriate, and may maintain a public log as the status of all projects under formal review.

(2) The draft EIR shall be available to the general public upon filing of the notice of completion with the Secretary of the California Resources Agency.

(3) A public hearing shall be held by the City Planning Commission on every draft EIR, with such hearing combined as much as possible with other activities of the Commission. Notice of such hearings shall be given by publication in a newspaper of general circulation in the City and County at least 30 days prior to the hearing, by posting in the offices of the Department of City Planning, by posting on or near the site proposed for the project; and by mail not less than 30 days prior to the hearing to the applicant, to the board, commission or department that is to carry out or approve the project, and to any other person requesting such notice.

(4) The draft EIR, including any revisions made prior to or during the public hearing, shall be a basis for discussion at the hearing. To the extent feasible, the comments sought from agencies and persons under Subsection (a) above shall also be available at the public hearing. Members of the general public shall be encouraged to submit their comments in writing, and at as early a stage as possible. (Amended by Ord. 166-74, App. 4/11/74)

SEC. 31.28. FINAL ENVIRONMENTAL IMPACT REPORTS. (a) A final EIR shall be prepared by the Department of City Planning, based upon the draft EIR, the consultations and comments received during the review process, and additional information that may become available. Revision of the EIR may begin before the public hearing, but the EIR shall remain open to further revision until after the public hearing has been concluded.

(b) The final EIR shall include a list of agencies and persons consulted, the comments received, either verbatim or in summary, and a response to any comments that raise significant points concerning effects on the environment. The response to comments may take the form either of revisions within the draft EIR, or of revision by addition of a separate section in the final EIR, or both. Any significant comments that are not accepted in the revisions made shall be addressed in detail, with reasons given for nonacceptance.

(c) A public record shall be kept of each case in which an EIR is prepared, including all comments received in writing in addition to a record of the public hearing. The final EIR shall indicate the location of such record. Any transcription of a hearing record shall be at the expense of the person requesting such transcription.

(d) If there is significant revision of the EIR, notice to that effect shall be posted in the offices of the Department of City Planning with the revised EIR available for public review, at least 10 days prior to the decision whether to carry out or approve the project pursuant to Section 31.29 of this Chapter. If no such significant revision is made, a period for public review of the revised EIR is not required.

(e) When the final EIR has been prepared and in the judgment of the City Planning Commission it is adequate, accurate and objective, the Commission shall certify its completion in compliance with CEQA and the State Guidelines. The certification of completion shall contain a finding as to whether the project as proposed will, or will not, have a significant effect on the environment. (Amended by Ord. 166-74, App. 4/11/74)

SEC. 31.29. ACTIONS ON PROJECTS. (a) The certification of completion and the final EIR shall be transmitted by the Department of City Planning to the applicant and the board, commission or department that is to carry out or approve the project, and shall be presented to the body which will decide whether to carry out or approve the project as indicated in Section 31.11 (d) of this Chapter. These documents shall also be presented to any appellant body in the event of an appeal from the decision whether to carry out or approve the project.

(b) Before making its decision whether to carry out or approve the project, the decision-making body or appellate body shall certify that it has reviewed and considered the information contained in the EIR. In the course of reviewing and considering the EIR, the decision-making body or appellate body may include additional statements or findings in the EIR in the form of an addendum, indicating its own further evaluation of the environmental effects of the project, the means for reducing those effects, alternatives to the project, and other matters required to be addressed in the EIR, and indicating the manner in which the decision-making body or appellate body has taken into account other public objectives, or overriding considerations, including economic and social factors, in relation to the EIR.

(c) Thereafter, the decision-making body or appellate body may make its decision whether to carry out or approve the project. The EIR and its findings shall not in themselves necessarily require a decision either to carry out or approve, or not to carry out or approve, the project. CEQA and the State Guidelines confirm the discretion of local agencies with regard to projects under their own jurisdiction. However, where the action of the decision-making body or appellate body allows the occurrence of one or more significant environmental effects identified in the final EIR, such body shall state in writing reasons to support its action based on the final EIR or other information constituting substantial evidence in the record. This statement need not be contained in the EIR. The statement shall contain one or more of the following findings for each such significant effect, accompanied by a description of, or reference to, the facts supporting each finding —

(1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects thereof as identified in the final EIR.

(2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and such changes have been adopted by such other agency, or can and should be adopted by such other agency.

(3) Specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR.

(d) After the City and County has decided to carry out or approve the project, the Department of City Planning shall file a notice of determination with the county clerk of the county or counties in which the project is to be located. Such notice shall describe the project proposed, shall state that an EIR has been prepared and certified pursuant to the provisions of CEQA and the State Guidelines, shall contain a brief statement of mitigation measures which were adopted to reduce the impacts of the approved project, shall indicate the determination whether the project in its approved form will, or will not, have a significant effect on the environment, and shall indicate the decision of the City and County to carry out or

approve the project. If the project requires discretionary approval from a State agency, the notice of determination shall also be filed with the Secretary for Resources. (Amended by Ord. 92-77, App. 3/18/77)

ARTICLE IV

OTHER PROCEDURES

SEC. 31.31. MULTIPLE ACTIONS ON PROJECTS. (a) The concept of a project is broadly defined by CEQA and the State Guidelines so that multiple actions of the same or of different kinds may often constitute a single project. This concept of a project permits all the ramifications of a public action to be considered together, and avoids duplications of review. The concept has a number of other implications, as set forth in this Section.

(b) Early and timely evaluation of projects and preparation of EIR's shall be emphasized.

(c) Only one initial evaluation, negative declaration or EIR shall be required for each project.

(d) For purposes of determining the appropriate time for evaluation of projects and preparation of EIR's pursuant to Articles II and III of this Chapter, there shall be only one relevant decision by the City and County to carry out or approve, or not to carry out or approve, a project. However for other purposes there may be more than one determination by the same or separate boards, commissions and departments of the City and County, either discretionary or ministerial, affecting the carrying out or approval of the project. The authority and effectiveness of any other such determinations, including determinations by the Board of Permit Appeals or any other appellate body, shall not be diminished by anything in this Chapter.

(e) Only one evaluation of a project or preparation of an EIR shall occur in cases in which both the City and County of San Francisco and one or more other public agencies are to carry out or approve a project. In such cases the evaluation or preparation is performed by the lead agency, which agency is selected by reference to criteria in the State Guidelines, including the presence of discretion over the project, directness of responsibility, generality of governmental powers, and sequence of action on the project.

(f) All public and private activities or undertakings pursuant to or in furtherance of a redevelopment plan constitute a single project. Redevelopment plans already in execution on the effective date of this Chapter, if they are subject to CEQA, may have evaluations and preparation of EIR's performed for prospective actions either on a total area basis or on a case-by-case basis.

(g) The State Guidelines provide that a single initial evaluation, negative declaration or EIR may be employed for more than one project, if all such projects are essentially the same in terms of environmental effects. Furthermore, an initial evaluation, negative declaration or EIR prepared for an earlier project may be applied to a later project, if the circumstances of the projects are essentially the

same. In either situation, if the circumstances are not essentially the same, the earlier initial evaluation, negative declaration or EIR may be modified and applied to the later project. These methods shall be used where feasible.

(h) Reference is made in CEQA and the State Guidelines to simultaneous consideration of multiple and phased projects, related projects, cumulative effects of projects, projects elsewhere in the region, existing and planned projects, and growth-inducing effects relating present and future projects. Such consideration shall be given to the extent it is reasonable and feasible, and to the extent that other projects and the probable effects of projects under review are known.

(i) With respect to projects preceding CEQA and the State Guidelines, and projects for which evaluations and EIR's have already been completed, or on which substantial work has been performed, CEQA and the State Guidelines make provision as to when, if at all, a new evaluation or EIR must be prepared. In cases in which an evaluation or EIR has already been prepared, a revised evaluation or EIR is required when substantial changes occur either in the proposed project or with respect to the circumstances under which the project is to be undertaken. An effort shall be made, in preparation of evaluations and EIR's, to consider alternatives and thus avoid the need for such further review of the project. (Amended by Ord. 166-74, App. 4/11/74)

SEC. 31.35. EVALUATION OF MODIFIED PROJECTS. (a) After evaluation of a proposed project has been completed pursuant to Article III of this Chapter, a modification of one or more of the following types shall require reevaluation of the proposed project:

- (1) A substantial change in the proposed project;
- (2) A substantial change with respect to the circumstances under which the project is to be undertaken; or
- (3) A substantial change in relevant information available for use in evaluation of the project.

(b) Where such a modification occurs as to a project that has been determined to be excluded or categorically exempt pursuant to Section 31.22 (a) of this Chapter, a new determination shall be made as provided in said section.

(1) If the project is again determined to be excluded or categorically exempt, no further evaluation shall be required by this Chapter.

(2) If the project is determined not to be excluded or categorically exempt, an initial evaluation shall be conducted as provided in Section 31.23 of this Chapter.

(c) Where such a modification occurs as to a project for which a negative declaration has been issued pursuant to Section 31.24 of this Chapter, the Department of City Planning shall reevaluate the proposed project in relation to such modification.

(1) If, on the basis of such reevaluation, the Department of City Planning determines that there could be no substantial change in the environmental effects of the project as a result of such modification, this determination and the reasons therefor shall be noted in the case record, and no further evaluation shall be required by this Chapter.

(2) If, on the basis of such reevaluation, the Department of City Planning determines that there could be a substantial change in the environmental effects of the project as a result of such modification, the project shall be considered a new

project for purposes of environmental review pursuant to Article III of this Chapter. In that event, a new evaluation shall be completed prior to the decision by the City and County as to whether to carry out or approve the project with its modification.

(d) Where such a modification occurs as to a project for which an EIR has been certified pursuant to Section 31.28 of this Chapter, the Department of City Planning shall reevaluate the proposed project in relation to such modification.

(1) If, on the basis of such reevaluation, the Department of City Planning determines that there could be no substantial change in the environmental effects of the project as a result of such modification, this determination and the reasons therefor shall be noted in the case record, and no further evaluation shall be required by this Chapter.

(2) If, on the basis of such reevaluation, the Department of City Planning determines that there could be a substantial change in the environmental effects of the project as a result of such modification, a further evaluation shall be required. In that event, the further evaluation shall be completed prior to the decision by the City and County as to whether to carry out or approve the project with its modification. Where the modification is of such a nature that the further evaluation can be accomplished through amendment of the certified EIR under Section 31.36 below, the further evaluation shall be performed pursuant to that section. Where the modification is not of such a nature, a new EIR shall be prepared pursuant to Sections 31.26 through 31.28 of this Chapter. (Added by Ord. 92-77, App. 3/18/77)

SEC. 31.36. AMENDMENT OF A CERTIFIED ENVIRONMENTAL IMPACT REPORT. (a) This Section shall apply to projects as described in Section 31.35(d)2 above, where an EIR has been previously certified, and where the modification relating to the project could result only in a clearly defined change in the environmental effects of the project, making unnecessary a complete reassessment of environmental effects under Sections 31.26 through 31.28 of this Chapter.

(b) For such projects, the further evaluation required by Section 31.35(d)(2) shall be limited to amendment of the certified EIR in terms of the modification relating to the project. The amendment shall describe the modification and describe and assess the environmental effects changed by such modification. The procedures set forth in Sections 31.26 through 31.28 of this Chapter shall apply to the preparation, review and certification of the amendment, with the following exceptions:

(1) Prior to preparation of a draft of the amendment, notice of such preparation shall be given by publication in a newspaper of general circulation in the City and County; by posting in the offices of the Department of City Planning; and by mail to the applicant, to the board, commission or department that is to carry out or approve the project, and to all organizations and individuals who have previously requested such notice.

(2) Wherever the term "EIR" appears in Sections 31.26 through 31.28, that term shall be read as "amendment" for purposes of the amendment procedures, except in Subsections 31.26(d) and (e).

(3) The 30-day time periods prescribed by Sections 31.27(a)(3) and 31.27(b)(3) shall in each case be shortened to 20 days for an amendment.

(4) The certification of completion by the City Planning Commission shall consist of a recertification of the EIR as amended, and shall contain a finding as to whether the proposed project with its modification will, or will not, have a significant effect on the environment. (Added by Ord. 92-77, App. 3/18/77)

ARTICLE V**ADMINISTRATION AND FEES**

SEC. 31.41. OFFICE OF ENVIRONMENTAL REVIEW. (a) An Office of Environmental Review is hereby created in the Department of City Planning, which shall be responsible, acting through the Director of Planning, for the administration of this Chapter.

(b) Said office shall be under the direction of an Environmental Review Officer, who shall supervise the staff members of the office and have charge of the collection of fees by the office.

(c) In addition to the powers and duties conferred elsewhere in this Chapter, the Environmental Review Officer shall, upon delegation by the City Planning Commission, take testimony at public hearings on draft environmental impact reports as specified in Section 31.27(b) of this Chapter, and shall report to the Commission upon such testimony at a continuation of such hearing before the Commission.

(d) The Environmental Review Officer shall also take such measures, within his or her powers, as may be necessary to assure compliance with this Chapter by persons outside the Department of City Planning, and shall periodically review the effectiveness and workability of the provisions of this Chapter and recommend any refinements or changes that he or she may deem appropriate for improvement of such provisions. (Added by Ord. 134-74, App. 4/11/73)

SEC. 31.45. ALLOCATION OF COSTS. (a) The costs of initial evaluations, preparation of environmental impact reports, notices, hearings and other aspects of administering this Chapter shall be borne as follows:

(1) For a project to be carried out by the City and County (Section 31.11(a)(1)): By the board, commission or department that is to carry out such project, as part of the budgeted project costs.

(2) For a project to be carried out by any person other than the City and County (Section 31.11(a)(2) and (3)): By such person.

(3) For the taking of an appeal to the City Planning Commission: By the appellant. (Added by Ord. 134-73, App. 4/11/73)

SEC. 31.46. BASIC FEES. (a) The following basic fees shall be charged by the Planning Department, as specified in Section 31.45 above:

(1) For an initial evaluation of a project (Section 31.23) excluding use of special expertise or technical assistance, as described in Section 31.47 below, the initial fee shall be:

— Where the total estimated construction cost as defined by the San Francisco Building Code is less than \$10,000: \$950;

— Where said total estimated construction cost is \$10,000 or more, but less than \$200,000: \$950 PLUS .41% of the cost over \$10,000;

— Where said total estimated construction cost is \$200,000 or more, but less than \$1,000,000: \$1,730 PLUS .31% of the cost over \$200,000;

— Where said total estimated construction cost is \$1,000,000 or more, but less than \$10,000,000: \$4,248 PLUS .26% of the cost over \$1,000,000;

- Where said total estimated construction cost is \$10,000,000 or more, but less than \$30,000,000: \$27,647 PLUS .08% of the cost over \$10,000,000;
- Where said total estimated construction cost is \$30,000,000 or more, but less than \$50,000,000: \$44,067 PLUS .03% of the cost over \$30,000,000;
- Where said total estimated construction cost is \$50,000,000 or more, but less than \$100,000,000: \$49,540 PLUS .007% of the cost over \$50,000,000;
- Where said total estimated construction cost is \$100,000,000 or more: \$53,189 PLUS .003% of the cost over \$100,000,000.
- Where there is no construction cost: \$950; plus time and materials as set forth in subsection (b)(2).

An applicant proposing significant revisions to a project for which an application is on file with the Planning Department shall be charged time and materials to cover the full costs in excess of the fee paid, total charge not to exceed three times the initial fee without providing an estimate of cost.

(2) For preparation of an environmental impact report (Sections 31.26 — 31.28) excluding use of special expertise or technical assistance, as described in Section 31.47 below, the initial fee shall be:

- Where the total estimated construction cost as defined in the San Francisco Building Code is less than \$200,000: \$16,000;
- Where said total estimated construction cost is \$200,000 or more, but less than \$1,000,000: \$16,000 PLUS .4% of the cost over \$200,000;
- Where said total estimated construction cost is \$1,000,000 or more, but less than \$10,000,000: \$19,187 PLUS .27% of the cost over \$1,000,000;
- Where said total estimated construction cost is \$10,000,000 or more, but less than \$30,000,000: \$43,514 PLUS .11% of the cost over \$10,000,000;
- Where said total estimated construction cost is \$30,000,000 or more, but less than \$50,000,000: \$64,854 PLUS .03% of the cost over \$30,000,000;
- Where said total construction cost is \$50,000,000 or more, but less than \$100,000,000: \$70,328 PLUS .03% of the cost over \$50,000,000;
- Where said total estimated construction cost is \$100,000,000 or more: \$84,554 PLUS .01% of the cost over \$100,000,000.
- Where there is no construction cost . . . \$16,000 plus time and materials as set forth in Subsection (b)(2).

Projects sponsored by City agencies shall be only subject to time and material costs incurred.

An applicant proposing significant revisions to a project for which an application is on file with the Planning Department shall be charged time and materials to cover the full costs in excess of the fee paid, total charge not to exceed three times the initial fee without providing an estimate of cost.

(3) For an appeal to the Planning Commission (Sections 31.14(b), 31.24(d), 31.25(b)): The fee shall be \$200 to the appellant, and an additional fee shall be paid by the project sponsor based on the time and materials the Department expends in responding to the appeal; provided, however, that this additional fee shall not exceed three times the cost of the initial evaluation as set forth in Paragraph (1) above without providing an estimate of costs.

(4) For preparation of an addendum to an environmental impact report that has previously been certified, pursuant to Section 15164 of the State CEQA Guidelines: \$5,000.

(5) For preparation of a supplement to a draft or certified final environmental impact report: One-half of the fee that would be required for a full environmental impact report on the same project, as set forth in Paragraph (2) above.

(6) For reevaluation of a modified project for which a negative declaration has been prepared, pursuant to Section 31.35(a) and (c): \$500 plus time and materials as set forth in Subsection (b)(2).

(7) For preparation of a Certificate of Exemption from Environmental Review determining that a project is categorically exempt, statutorily exempt, ministerial/nonphysical, an emergency, or a planning and feasibility study: \$150 plus time and materials as set forth in Subsection (b)(2).

(8) For preparation of a letter of exemption from environmental review: \$65.

(9) For reactivating an application that the Environmental Review Officer has deemed withdrawn due to inactivity and the passage of time, subject to the approval of the Environmental Review Officer and within six months of the date the application was deemed withdrawn: \$1,000 plus time and materials to cover any additional staff costs, total charge not to exceed twice the initial fee for the original application without providing an estimate of cost.

(b) Payment.

(1) The fee specified in Subsection (a)(1) shall be paid to the Planning Department at the time of the filing of the environmental evaluation application, and where an environmental impact report is determined to be required, the fee specified in Subsection (a)(2) shall be paid at the time the preliminary draft environmental impact report I (PDEIR I) is prepared, except as specified below. However, the Director of Planning may authorize phased collection of the fee for a project whose work is projected to span more than one fiscal year.

(2) The Planning Department shall charge the applicant for any time and material costs incurred in excess of the fee paid where authorized above. The total additional charge shall not exceed two times the initial fee paid without providing an estimate of cost. Provided, however, that where a different limitation on time and materials is set forth elsewhere in this Section, that limitation shall prevail.

(3) Any fraternal, charitable, benevolent or any other nonprofit organization, which organization is exempt from taxation under the Internal Revenue laws of the United States and the Revenue and Taxation Code of the State of California as a bona fide fraternal, charitable, benevolent or other nonprofit organization, may defer payment of the fees specified in Subsections (a)(1) and (a)(2) to (1) the time of issuance of the building permit, before the building permit is released to the applicant; or (2) within one year of the date of completion of the environmental review document, whichever is sooner, provided that the application is for the development of residential units all of which units are affordable to low and moderate income households, as defined in the Guidelines of the United States Housing and Urban Development Department, for a period of 20 years, which exemption shall apply notwithstanding the inclusion in the development of other nonprofit ancillary or accessory uses.

(4) An exemption from paying the full fees specified under Subsection (a)(3) may be granted when the appellant's income is not enough to pay the fee without affecting their abilities to pay for the necessities of life, provided that the person seeking the exemption demonstrates to the Zoning Administrator that they are substantially affected by the proposed project.

(5) Exceptions to the payment provisions noted above may be made when the Environmental Review Officer has authorized phased collection of the fee for a project whose work is projected to span more than one fiscal year.

(c) **Refunds.** When a request for an initial evaluation or for preparation of an environmental impact report is (1) either withdrawn by the applicant prior to publication of an environmental document or (2) deemed canceled by the Planning Department due to inactivity on the part of the applicant, then the applicant shall be entitled to a refund of the fees paid to the Department less the time and materials expended minus a \$200 processing fee.

(d) **Late Charges and Collection of Overdue Accounts.** A surcharge of one percent per month shall be added to the fee amount owing the Department for fee accounts in arrears more than 30 days. The Zoning Administrator may call upon other City agencies or duly licensed collection agencies for assistance in collecting delinquent accounts more than six months in arrears, in which case any additional costs of collection may be added to the fee amount outstanding. If the Department seeks the assistance of a duly licensed collection agency, the approval procedures of Administrative Code Article 5, Section 10.39-1 et seq. will be applicable.

(e) These amendments to fees related to the Planning Department are intended to provide revenues for the staffing and other support necessary to provide more timely processing of applications within that Department. (Added by Ord. 173-91, App. 5/1/91; amended by Ord. 123-92, App. 5/1/92; Ord. 150-92, App. 5/29/92; Ord. 317-92, App. 10/29/92; Ord. 149-93, App. 5/25/93; Ord. 214-94, App. 6/2/94; Ord. 177-95, App. 6/2/95; Ord. 354-95, App. 11/15/95; Ord. 305-96, App. 7/25/96; Ord. 338-97, App. 8/29/97; Ord. 169-98, App. 5/21/98)

SEC. 31.47. OTHER FEES. (a) Where an initial evaluation or preparation of an environmental impact report and related environmental studies require the use of special expertise or technical assistance not provided by the board, commission, department or other person who is to carry out the project, such expertise or assistance shall be paid for by such board, commission, department or other person. This payment shall be made either to the Department of City Planning or, if the Department of City Planning so requests, directly to the party that will provide such expertise or technical assistance.

(b) Where outside consultants are used for such purposes, and the project is to be directly carried out by a person other than a board, commission or department of the City and County, such consultants shall report their findings directly to the Department of City Planning.

(c) Where employees of the City and County are used for such purposes, the costs of such employees shall be paid to the board, commission or department providing such employees. (Amended by Ord. 91-86, App. 3/21/86)

SEC. 31.50. SEVERABILITY. (a) If any article, section, subsection, paragraph, sentence, clause or phrase of this Chapter, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, or other competent agency, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof. The Board of Supervisors hereby declares that it would have passed each article, section, subsection, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or

more articles, sections, subsections, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective.

(b) If the application of any provision or provisions of this Chapter to any person, property or circumstances is found to be unconstitutional or invalid or ineffective in whole or in part by any court of competent jurisdiction, or other competent agency, the effect of such decision shall be limited to the person, property or circumstances immediately involved in the controversy, and the application of any such provision to other persons, properties and circumstances shall not be affected.

(c) This Section 31.50 shall apply to this Chapter as it now exists and as it may exist in the future, including all modifications thereof and additions and amendments thereto. (Added by Ord. 134-73, App. 4/11/73)

SEC. 31.60. FISH AND GAME DOCUMENT FEE. In addition to any filing fees required by statute, the County Clerk shall collect a documentary handling fee in the amount of \$25 for each filing made pursuant to California Fish and Game Code Section 711.4, Subdivision (d). (Added by Ord. 154-91, App. 4/25/91)

CHAPTER 32

RESIDENTIAL REHABILITATION LOAN PROGRAM

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- Sec. 32.94. Construction and Effect of Chapter.
- Sec. 32.95. Severability.

SEC. 32.1. PURPOSE. This Chapter provides for the administration and financing of a Rehabilitation Assistance Program (RAP) in the City and County of San Francisco. The provisions of this Chapter constitute the City and County's comprehensive residential rehabilitation financing program adopted pursuant to the Marks-Foran Residential Rehabilitation Act of 1973, Section 37910, et seq., of the Health and Safety Code and under Charter Section 7.308.

The purpose of RAP is to improve the condition of housing and the quality of life in San Francisco by providing a means through which property owners in designated residential areas in San Francisco which are deteriorating may obtain financial assistance to rehabilitate their property. It shall be the policy of RAP to maintain the existing diversity of San Francisco's neighborhoods; to encourage the existence of low and moderate income housing; and to preserve the residential character of designated areas. The methods to be used consist of concentrated code enforcement; relocation assistance; low-cost, long-term loans for property rehabilitation, and public improvements necessary to ensure the successful rehabilitation of the area. It shall be the policy of the City and County to provide adequate funding for these purposes as funds are available. (Amended by Ord. 116-77, App. 4/1/77)

SEC. 32.2. DEFINITIONS. Unless the context otherwise requires, the following definitions govern the construction of this Chapter:

(a) "Abatement Appeals Board" means the board described in Section 203.1 through 203.1G of the San Francisco Building Code.

(b) "Area Rent Committee" means the committee established in accordance with Section 32.34.

(c) "Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by the City and County pursuant to this Chapter and which

are payable exclusively from revenues, as defined, and from any other funds specified in this Chapter upon which the bonds may be made a charge and from which they are payable.

(d) "City" means the City and County of San Francisco.

(e) "Citizens Advisory Committee" means the committee established in accordance with Section 32.30.

(f) "Code enforcement area" has the same meaning as residential rehabilitation area.

(g) "Conventional RAP loan" means any residential rehabilitation loan made pursuant to the provisions of this Chapter which is not a hardship loan.

(h) "Designated area" has the same meaning as residential rehabilitation Area.

(i) "Finance" means the lending of money or any other thing of value for the purpose of residential rehabilitation and unless otherwise indicated includes refinancing of outstanding indebtedness of a participating party with respect to property which is subject to residential rehabilitation.

(j) "General property improvements" means those items of residential rehabilitation which are not necessary to meet either rehabilitation standards or incipient violations thereof.

(k) "Hardship loan" means an interest-free loan with deferred payments of principal made to a qualified low-income owner-occupant of property subject to residential rehabilitation who would not otherwise be able to pay the cost of meeting rehabilitation standards.

(l) "Incipient code violation" is a physical condition which can be expected to deteriorate into a violation of a rehabilitation standard within two years.

(m) "Loan Committee" means the committee established in accordance with Section 32.32

(n) "Participating Party" means any person, company, corporation, partnership, firm or other entity or group of entities requiring financing for residential rehabilitation pursuant to the provisions of this Chapter.

(o) "Program" means the Rehabilitation Assistance Program described in this Chapter and includes, but is not limited to, the provisions for code enforcement, rehabilitation financing, and installation of public improvements in residential rehabilitation areas.

(p) "Rehabilitation Assistance Program" or "RAP" has the same meaning as "program."

(q) "Rehabilitation standards" means the standards established in the City and County Housing Code and other applicable City and County codes relating to the physical condition of structures.

(r) "Rent Board" means the Residential Rent Stabilization and Arbitration Board of the City and County of San Francisco.

(s) "Residence" means any structure, residential or commercial, which is located in a residential rehabilitation area.

(t) "Residential rehabilitation" means the construction, reconstruction, renovation, replacement, extension, repair, betterment, equipping, developing, embellishing, or otherwise improving residences consistent with standards of strength, effectiveness, fire resistance, durability, and safety, so that such structures

are satisfactory and safe to occupy for residential purposes and are not conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime because of any one or more of the following factors:

- (1) Defective design and character of physical construction;
- (2) Faulty interior arrangement and exterior spacing;
- (3) Inadequate provisions for ventilation, lighting and sanitation; or
- (4) Obsolescence, deterioration and dilapidation.

(u) "Residential rehabilitation area" means the geographical area designated by the Board of Supervisors as one for inclusion in a comprehensive residential rehabilitation financing program pursuant to the provisions of this Chapter. It may also be referred to as the "designated area" or the "Code enforcement area," the latter term being used in Section 301A of the Housing Code.

(v) "Residential rehabilitation loan fund" means the fund established with the proceeds of bonds issued pursuant to the provisions of this Chapter or any other fund established for the purpose of making loans to property owners pursuant to the provisions of this Chapter. (Amended by Ord. 269-82, App. 6/10/82)

SEC. 32.3. REFERENCES TO PUBLIC OFFICIALS AND PUBLIC AGENCIES. (a) Unless otherwise indicated, all public officials and public agencies named in this Chapter are officials and agencies of the City and County.

(b) Whenever a City and County official is referred to in this Chapter, the reference includes that official and his or her designee or designees.

(c) All references to the Charter or to ordinances are references to the Charter or to ordinances of the City and County. (Added by Ord. 23-74, App. 1/9/74)

ARTICLE II

RESPONSIBILITIES OF BOARD OF SUPERVISORS

SEC. 32.10. ISSUANCE OF BONDS. The Board of Supervisors may from time to time by resolution authorize procedures for the issuance of bonds for the purpose of establishing a loan fund to be used to assist property owners with the rehabilitation of property located in Residential Rehabilitation Areas. The repayment of principal, interest and other charges on the loans to property owners, together with such other moneys as the Board of Supervisors may, in its discretion, make available therefor, shall be the sole source of funds pledged by the City and County for repayment of such bonds. Bonds issued under the provisions of this Chapter shall not be deemed to constitute a debt or liability of the City and County or a pledge of the faith and credit of the City and County, but shall be payable solely from the funds specified in this Section. The issuance of such bonds shall not directly, indirectly or contingently obligate the Board of Supervisors to levy or to pledge any form of taxation whatever therefor, or to make any appropriation for their payment. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.11. COMMITMENT TO ENFORCE REHABILITATION STANDARDS AND IMPLEMENT PLAN FOR PUBLIC IMPROVEMENTS.

Prior to using funds generated by the issuance of bonds pursuant to this Chapter for financing residential rehabilitation in any residential rehabilitation area, the Board of Supervisors shall adopt a resolution committing the City and County, subject to budgetary and fiscal limitations, to:

(a) Enforcement of rehabilitation standards in 95 percent of the structures in the Residential Rehabilitation Area; and

(b) Implementation of plan for public improvements in the Residential Rehabilitation Area, which plan has been developed with citizen participation and adopted by the Board of Supervisors after a public hearing.

Enforcement of rehabilitation standards shall be deemed to have been completed when a structure has been brought into compliance with rehabilitation standards; when a structure is the subject of litigation directed to requiring compliance with rehabilitation standards; or when the owner of a structure is given a deferred time by the Abatement Appeals Board for compliance with specified rehabilitation standards which do not constitute immediate life hazards as that term is defined by the Director of the Department of Public Works. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.12. DESIGNATION OF RESIDENTIAL REHABILITATION AREAS. The Board of Supervisors shall be responsible for designating, upon the recommendation of the Chief Administrative Officer, residential rehabilitation areas following the procedures and criteria provided for in Article V. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.13. APPROVAL OF FEES, CHARGES AND INTEREST RATES ON FINANCING. The Board of Supervisors shall, upon the recommendations of the Chief Administrative Officer, approve by resolution prior to levy, all fees, charges and interest rates to be charged participating parties in connection with financing residential rehabilitation. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.14. REVISION OF LOAN CHARGES. Prior to any revision of the fees, charges and interest rates for financing residential rehabilitation, the Board of Supervisors shall prescribe standards for the revision of such fees, charges and interest rates. Such standards:

(a) Shall be adopted by the Board of Supervisors after a public hearing preceded by public notice to affected parties; and

(b) May reflect only changes in interest rates on the City and County's bonds, losses due to defaults, and bona fide changes in loan servicing charges related to the administration of a program under the provisions of this Chapter. (Added by Ord. 23-74, App. 1/9/74)

ARTICLE III

ADMINISTRATION OF PROGRAM

SEC. 32.20. RESPONSIBILITY FOR ADMINISTRATION OF PROGRAM. The Chief Administrative Officer shall be responsible for administration

of all aspects of the Rehabilitation Assistance Program except those aspects for which responsibility is specifically retained by the Board of Supervisors or assigned by the Board of Supervisors to another City and County agency. The Chief Administrative Officer, and each City and County agency assigned responsibilities by or pursuant to this Chapter, shall have all such authority as may be reasonably necessary to carry out those responsibilities. While retaining overall responsibility for administration of the program, the Chief Administrative Officer shall utilize the services of the Department of Public Works in connection with the code enforcement aspects of the program, and the services of the Real Estate Department in connection with the rehabilitation financing aspects of the program. The Chief Administrative Officer may also request the assistance of any other City and County agency in meeting his or her responsibilities under this program. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.21. RULES AND REGULATIONS. The Chief Administrative Officer shall promulgate such rules and regulations as he or she may deem appropriate to carry out the provisions of this Chapter. These rules and regulations shall be developed with the participation of the Citizen Advisory Committees and the Rent Board. A copy of all such rules and regulations shall be available for review by the public during regular business hours in the office of the Chief Administrative Officer, the office of the Clerk of the Board of Supervisors, the Department of Public Works, and in every other office established for the purpose of carrying out this program. (Added by Ord. 269-82, App. 6/10/82)

SEC. 32.22. MANAGEMENT OF BOND PROCEEDS. Unless provided otherwise in any bond resolution adopted pursuant to the provisions of this Chapter, the Chief Administrative Officer, acting on the recommendation of the Controller:

- (a) May invest and reinvest both the bond proceeds and the revenues from the financing of residential rehabilitation, and
- (b) May manage fiscally the proceeds of bonds issued for the purpose of establishing a residential rehabilitation loan fund, or
- (c) Together with the Purchaser may enter into contractual arrangement with private lending institutions or trust companies to manage the Residential Rehabilitation Loan Fund, including investment and reinvestment of the funds, disbursements from the fund and collection of revenues. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.23. RECOMMENDATION OF FEES, CHARGES AND INTEREST RATES ON FINANCING. The Chief Administrative Officer, acting on the advice of the Controller, shall recommend to the Board of Supervisors for adoption:

- (a) The fees, charges and interest rates which will be charged participating parties in connection with financing residential rehabilitation; and
- (b) Revisions, as necessary, of the fees, charges and interest rates levied on participating parties, consistent with the standards adopted by the Board of Supervisors pursuant to Section 32.14. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.24. NOTICE OF DEFAULTS AND FORECLOSURES. When there is a default on a conventional RAP loan secured by a deed of trust naming the City and County as a beneficiary and the property becomes subject to foreclosure procedures, the Chief Administrative Officer shall so inform the Citizens Advisory Committee for the residential rehabilitation area where the property is located. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.25. PUBLICATION OF EXPLANATORY BROCHURE. Subject to funds being available, the Chief Administrative Officer shall cause to be published and available to the public a brochure describing RAP and how it affects both tenants and property owners. (Added by Ord. 23-74, App. 1/9/74)

ARTICLE IV

CITIZENS ADVISORY COMMITTEE, AREA LOAN COMMITTEE AND AREA RENT COMMITTEE

SEC. 32.30. CITIZENS ADVISORY COMMITTEE — MEMBERSHIP. (a) There shall be established a Citizens Advisory Committee for each residential rehabilitation area. Each Citizens Advisory Committee shall consist of not more than 11 persons.

(b) Property owners shall constitute six of the 11 members when 50 percent or more of the structures are owner occupied. The balance of the membership shall be tenants.

(c) Tenants shall constitute six of the 11 members when less than 50 percent of the structures are owner occupied. The balance of the membership shall be property owners.

(d) The determination as to whether 50 percent or more of the structures are owner-occupied shall be made by Director of Planning at the time an area is proposed for designation as a RAP area by the Director. (Amended by Ord. 567-77, App. 12/29/77)

SEC. 32.30-1. CITIZENS ADVISORY COMMITTEE — MEMBERSHIP. (a) There shall be established a Citizens Advisory Committee for each residential rehabilitation area. Each Citizens Advisory Committee shall consist of 11 persons.

(b) Members of the Citizens Advisory Committee shall be selected from the following groups which are defined only for the purposes of Section 32.30-1.

(1) "Property owners" means persons owning property in the residential rehabilitation area.

(2) "Employees of property owners" means residents of the residential rehabilitation area who are employed by area property owners for 20 or more hours per month.

(3) "Agents of property owners" means residents of the residential rehabilitation area who represent an area property owner in dealing with third persons for any purpose.

(d) "Tenants" means residents of the residential rehabilitation area who are not area property owners, employees of property owners, or agents of property owners as defined in this Section.

(c) At least one property owner, and either additional property owners, employees of property owners, or agents of property owners shall constitute six of the 11 members of the Citizens Advisory Committee when 50 percent of the structures are owner-occupied. The balance of the membership shall be tenants.

(d) Tenants shall constitute six of the 11 members of the Citizens Advisory Committee when less than 50 percent of the structures are owner-occupied. The balance of the membership shall consist of at least one property owner and either additional property owners, employees of property owners, or agents of property owners.

(e) The determination as to whether 50 percent or more of the structures are owner-occupied shall be made by the Director of Planning at the time an area is proposed for designation as a RAP area by the Director.

(f) If the number of nominees for any constituency on the Citizens Advisory Committee exceeds the number of openings for that constituency, a publicly announced election shall be held to select the members of that constituency and only members of that constituency may vote in that election. Property owners, employees of property owners, and agents of property owners shall constitute one constituency. Tenants shall constitute a separate constituency.

(g) All nominations, appointments and elections necessary to carry out the purposes of this Section shall be in accordance with rules and regulations promulgated by the Chief Administrative Officer or the person to whom responsibility for administration of the program has been delegated.

(h) The provision of this Section shall apply only in residential rehabilitation assistance areas designated by resolution of the Board of Supervisors pursuant to Section 32.43 on or after July 1, 1977. (Added by Ord. 225-78, App. 5/1/78)

SEC. 32.31. CITIZENS ADVISORY COMMITTEE — FUNCTIONS.

The functions of the Citizens Advisory Committee include the following:

(a) Assist the Director of Planning and other relevant City and County departments in developing a plan for public improvements in the residential rehabilitation area;

(b) Participate with the Chief Administrative Officer in development of the rules and regulations governing implementation of the program;

(c) Assist the Chief Administrative Officer in implementation of the Residential Rehabilitation Program in the Residential Rehabilitation Area;

(d) Appoint a representative from the Residential Rehabilitation Area to the Loan Committee;

(e) Appoint members of the Area Rent Committee;

(f) Develop by-laws for the operation of the Citizens Advisory Committee, which by-laws shall be subject to the approval of the Chief Administrative Officer;

(g) Assist the Chief Administrative Officer in his or her selection of the liaison staff; and

(h) Act as liaison between the Chief Administrative Officer and the owners of property in and residents of the Residential Rehabilitation Area in solving problems which arise in the course of implementation of the program. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.32. LOAN COMMITTEE — MEMBERSHIP. There shall be a loan committee consisting of the following members:

(a) One individual from each Residential Rehabilitation Area who shall be appointed by the Citizens Advisory Committee for the area;

(b) One individual who is a permanent employee of the Real Estate Department; and

(c) One individual qualified in the field of real estate lending and financing who shall be appointed by the Chief Administrative Officer, unless provided otherwise in any bond resolution issued pursuant to the provisions of this Chapter. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.33. LOAN COMMITTEE — FUNCTIONS. The functions of Loan Committee are as follows:

(a) The Loan Committee shall periodically review the rules and procedures and standards for the granting of residential rehabilitation loans and shall recommend changes as needed to the chief Administrative Officer.

(b) The Loan Committee shall review and recommend approval or denial of applications required to be considered by the Loan Committee by or pursuant to this Chapter.

(c) The Loan Committee shall operate in a manner consistent with by-laws which shall be developed by the Chief Administrative Officer, and the recommendations of approval or denial of loan applications shall be in accordance with the requirements contained in, or adopted pursuant to, this Chapter. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.34. AREA RENT COMMITTEE. There shall be an Area Rent Committee established in each Residential Rehabilitation Area. Each Area Rent Committee shall consist of two tenants and two landlords living in the area who shall be appointed by the Citizens Advisory Committee pursuant to procedures established by the Chief Administrative Officer. (Added by Ord. 23-74, App. 1/9/74)

ARTICLE V

DESIGNATION OF RESIDENTIAL REHABILITATION AREAS AND DEVELOPMENT OF PLAN FOR PUBLIC IMPROVEMENTS

SEC. 32.40. PROVISIONS SUPERSEDE SECTION 301.A OF HOUSING CODE. The provisions of this Article control designation of areas for residential rehabilitation assistance without regard to the provisions of Section 301.A of the Housing Code. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.41. INITIAL SELECTION OF AREAS FOR DESIGNATION AS RESIDENTIAL REHABILITATION AREAS BY THE DIRECTOR OF PLANNING. (a) The Director of Planning shall recommend to the Chief Administrative Officer areas to be considered for designation by the Board of Supervisors.

(b) Prior to recommending an area, the Director of Planning shall conduct one or more public meetings in the area. Residents, property owners and representatives of neighborhood organizations shall be invited to attend these meetings. At these meetings the Director of Planning shall explain the rehabilitation assistance program, shall invite comments from the public and shall raise for discussion the following issues:

(1) Would rent increases or demolitions resulting from the cost of meeting rehabilitation standards result in widespread displacement of tenants;

(2) Would RAP assist neighborhood-initiated improvement programs;

(3) Would RAP preserve and improve the social, ethnic, and economic integration of the area; and

(4) Is there support from residents of the area and from the owners of property in the area for institution of the RAP?

(c) In deciding whether to recommend an area for designation as a Residential Rehabilitation Area, the Director of Planning shall take into consideration the comments from and the discussions with the public at the hearings held pursuant to Subsection (b). With each recommendation of a Residential Rehabilitation Area, the Director of Planning shall convey an opinion to the Chief Administrative Officer concerning the following factors:

(1) The extent of public support for designation of the area as a Residential Rehabilitation Area;

(2) Whether there is a substantial number of deteriorating structures in the area which do not conform to rehabilitation standards;

(3) Whether there is a need for financial assistance for residential rehabilitation to arrest the deterioration of the area;

(4) Whether financing of residential rehabilitation in the area is economically feasible;

(5) Whether rent increases or demolitions resulting from the cost of meeting rehabilitation standards would result in widespread displacement of tenants;

(6) Whether institution of RAP in the area would assist in neighborhood initiated improvement programs; and

(7) Whether institution of RAP would preserve and improve the social, ethnic, and economic integration of the area. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.42. RECOMMENDATION OF AN AREA FOR DESIGNATION AS A RESIDENTIAL REHABILITATION AREA BY THE CHIEF ADMINISTRATIVE OFFICER. If, after reviewing the recommendation of the Director of Planning for designation of an area, the Chief Administrative Officer is satisfied that the area is appropriate for designation as a Residential Rehabilitation Area, the Chief Administrative Officer shall recommend to the Board of Supervisors that it designate the area as a Residential Rehabilitation Area. Along with any recommendation of an area for designation as a Residential Rehabilitation

Area, the Chief Administrative Officer shall transmit to the Board of Supervisors the Director of Planning's opinion given pursuant to Section 32.41(c). (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.43. DESIGNATION OF RESIDENTIAL REHABILITATION AREAS BY THE BOARD OF SUPERVISORS. Residential Rehabilitation Areas shall be so designated by resolution of the Board of Supervisors following a public hearing and findings that:

(a) There is a substantial number of deteriorating structures in the area which do not conform to rehabilitation standards;

(b) Low-cost, long-term property owner loans are necessary to arrest the deterioration of the area; and

(c) Based upon currently available data and past experience with residential rehabilitation assistance projects (including experience with federally assisted code enforcement areas), financing of residential rehabilitation in the area is economically feasible. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.44. PLAN FOR PUBLIC IMPROVEMENTS. With the participation of the Citizens Advisory Committee, and in consultation with other relevant City and County agencies, the Director of Planning shall develop a proposed plan for public improvements for each Residential Rehabilitation Area. The proposed plan for public improvements for each area shall include all items the Director of Planning deems necessary to the successful rehabilitation of the Residential Rehabilitation Area and shall include consideration of health, recreation, child care, education, culture and safety facilities and services. The Director of Planning shall submit the proposed plan for public improvements in a Residential Rehabilitation Area to the Board of Supervisors. Prior to submittal of the plan for public improvements to the Board of Supervisors, the Director of Planning shall transmit it to the Citizens Advisory Committee for its recommendations. The Citizens Advisory Committee's recommendations shall be transmitted to the Board of Supervisors along with the proposed plan. The Board of Supervisors shall consider the plan at a public hearing. After such modification of the proposed plan, if any, as the Board of Supervisors deems necessary, the Board shall adopt a plan for public improvements for that area. (Added by Ord. 23-74, App. 1/9/74)

ARTICLE VI

LIMITATIONS ON AMOUNT OF LOAN

SEC. 32.50. MAXIMUM INDEBTEDNESS ON PROPERTY. Outstanding loans on the property to be rehabilitated, including the amount of the loan for rehabilitation, shall not exceed 80 percent of the anticipated after-rehabilitation value of the property to be rehabilitated, as determined by the Chief Administrative Officer, except that the Chief Administrative Officer may authorize loans of up to 95 percent of the anticipated after-rehabilitation value of the property if:

(a) Such loans are made for the purpose of rehabilitating the property for residential purposes;

(b) There is demonstrated need for such higher limit; and

(c) There is a high probability that the value of the property will not be impaired during the term of the loan. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.51. MAXIMUM AMOUNT OF LOAN. The maximum loan for rehabilitation shall be as follows: single family, \$30,000; two-three units, \$10,000 per unit; four or more units, \$7,500; commercial, \$5,000 per unit; guest rooms, as defined in Section 203.7 of the Housing Code, \$2,500 per unit.

The Chief Administrative Officer may approve a loan in excess of these amounts following guidelines established by the Chief Administrative Officer; provided, that in no case may the loan exceed \$17,500 per unit for dwelling units other than in single family dwellings and \$11,500 per unit for guest rooms. (Amended by Ord. 30-78, App. 1/13/78)

SEC. 32.52. LIMITATIONS ON USE OF LOAN FOR GENERAL PROPERTY IMPROVEMENTS. No more than 20 percent of any loan for residential rehabilitation shall be used for general property improvements except that in the case of owner-occupied, one-to-four dwelling unit properties, up to 40 percent of the loan may be used for general property improvements. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.53. REFINANCING. (a) A loan may be made to refinance an existing indebtedness on a residence if the cost of meeting rehabilitation standards and correcting incipient violations thereof for the residence equals at least 20 percent of the principal amount of the loan; and

(1) If the sum of the monthly principal and interest payments on the proposed loan for rehabilitation and the monthly payments on existing debt secured by the property, plus property taxes and insurance, would result in total monthly payments that would exceed 20 percent of the applicant's total monthly income; or

(2) If the Loan Committee recommends approval of refinancing and the recommendation is accepted by the Chief Administrative Officer;

(b) If the Chief Administrative Officer does not accept the recommendation of the Loan Committee regarding refinancing, he or she shall give written reasons for the refusal to accept such recommendation.

(c) In deciding whether to recommend that refinancing be made available to any particular applicant, the Loan Committee shall adhere to guidelines for refinancing which shall be adopted by the Chief Administrative Officer. In developing guidelines for refinancing, the Chief Administrative Officer shall take into consideration the availability of funds for financing residential rehabilitation, the need to prevent significant rent increases which would result in a hardship for tenants, and the need to prevent speculators from profiting from the use of residential rehabilitation financing. (Amended by Ord. 116-77, App. 4/1/77)

SEC. 32.54. LIMITATION BASED ON FAIR MARKET VALUE OF WORK. (a) Prior to the granting of any loan over \$20,000 under this Chapter, a qualified estimator will make an on-premises inspection of the applicant's property and certify, in writing, that the estimated cost of the recommended work, as detailed in the job specifications, is not more than 10 percent above fair market

value. No loan will be granted in an amount exceeding 10 percent of fair market value for the work specified or higher than the lowest bid received, whichever is less, without the approval of the Chief Administrative Officer

(b) Where loan is under \$20,000 and low bid exceeds estimate of building inspector by 10 percent, the Real Estate Department will hire an estimator to certify the fair market value of the job specifications.

(c) A qualified estimator is a person:

(1) Who is not a City employee; but

(2) Who is selected by the Chief Administrative Officer because he or she is qualified and experienced in the area of residential rehabilitation.

The estimator shall operate under the direction of the Director of the Real Estate Department.

(d) A property owner wishing to challenge the low bid or the estimator's value may hire a licensed estimator if he or she so desires.

(e) The Chief Administrative Officer shall, semi-annually, direct a report to the Board of Supervisors setting forth a list of the loans which were in excess of 10 percent of the estimated fair market value pursuant to the provisions of Paragraph (a) giving the reasons for approval in each case. (Amended by Ord. 274-78, App. 6/9/78)

ARTICLE VII

TERMS OF CONVENTIONAL RAP LOANS

SEC. 32.60. ELIGIBILITY FOR LOANS. (a) Each owner of property located within a residential rehabilitation area is eligible for a conventional RAP loan, provided the owner demonstrates to the satisfaction of the Chief Administrative Officer the ability to repay such a loan; applies for the loan within a time period to be designated by the Chief Administrative Officer; and can meet the other requirements of this Chapter. The property owner shall agree to all conditions of the loan agreement as a prerequisite to obtaining a loan. No elective officer of the state or any of its subdivisions shall be eligible to receive a loan under the provisions of this Chapter.

(b) Any owner who is denied a loan by the Chief Administrative Officer on the grounds that the owner does not meet eligibility requirements may appeal the decision to the Loan Committee. The Loan Committee shall review the application for a loan and make a recommendation regarding approval or denial to the Chief Administrative Officer. In reviewing the application, the Loan Committee shall give due consideration to the need for the loan to be made in order to accomplish the purposes of the program, the risks to the City and County of granting the loan, and the ability of the property to support the loan as well as to the reasons for denial of the application by the Chief Administrative Officer. If the Chief Administrative Officer does not accept the recommendations of the Loan Committee, he or she shall give written reasons for the refusal to approve the loan. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.61. MAXIMUM REPAYMENT PERIOD FOR LOAN; INITIATION OF PAYMENTS AFTER REHABILITATION. (a) The maximum repayment period for a conventional RAP loan shall be 20 years or $\frac{3}{4}$ of the economic life of the property, whichever is less.

(b) Subject to budgetary and fiscal limitations, payments on a conventional RAP loan shall not be required to commence prior to completion of the improvements for which such loan is made; provided that payments shall begin no later than six months after an initial disbursement from proceeds of the loan. The monthly payment due under the loan shall be adjusted to insure repayment of the principal and interest due on the loan within the time required by paragraph (a) of this Section. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.62. PREPAYMENT PENALTIES. There shall be no penalty assessed for prepayment of any conventional RAP loan. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.63. SECURITY FOR LOAN. Unless provided otherwise in any bond resolution issued pursuant to the provisions of this Chapter, every conventional RAP loan shall be secured by a deed of trust naming the City and County as beneficiary of the trust. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.64. INSURANCE. All conventional RAP loan agreements shall provide that so long as the loan or any portion of it is outstanding, the owner of the property subject to the loan shall carry adequate property insurance. The Chief Administrative Officer shall establish standards for determining when property insurance is adequate. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.65. IMPOUND ACCOUNT. If the Chief Administrative Officer deems it desirable and necessary to effectuate the purposes of the program that an impound account be required to assure taxes, insurance, or a maintenance reserve, he or she may include such a requirement in any conventional RAP loan agreement. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.66. TRANSFER OF LOANS. (a) The unpaid amount of a conventional RAP loan shall be due and payable upon sale or transfer of the ownership of the property, except that assignment of the unpaid amount of such a loan to a purchaser or transferee may be permitted when the Chief Administrative Officer determines that hardship conditions exist and the prospective owner qualifies for a loan on the basis of current loan eligibility standards.

(b) If the holder of a conventional RAP loan is dissatisfied with the Chief Administrative Officer's refusal to permit transfer of the unpaid amount of the loan because of a finding that hardship conditions do not exist, the holder of the loan may request review of the Chief Administrative Officer's determination by the Loan Committee. If the Loan Committee recommends a finding that hardship conditions exist, the Chief Administrative Officer shall either accept that recommendation or give written reasons for the refusal to accept it.

(c) Hardship conditions exist:

(1) When the owner of property subject to a conventional RAP loan is forced to sell the property and the property cannot be sold without a substantial loss of equity unless the loan is transferable;

(2) When the income of a prospective purchaser of property subject to a conventional RAP loan is at or below income standards to be established by the Chief Administrative Officer; or

(3) When the prospective purchaser is unable to obtain financing in the private sector because of age, disability or sex; or

(4) When transfer of the loan is necessary to prevent significant rent increases.

(d) The Chief Administrative Officer shall develop standards which shall be applied in making determinations required under this Section. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.67. INTEREST RATES AND OTHER LOAN CHARGES. The interest rate and any other charges for a conventional RAP loan shall be established pursuant to the provisions of Sections 32.13 and 32.23, and may include:

(a) The interest charged the City and County on funds borrowed to carry out the provisions of this Chapter;

(b) An amount needed to provide for possible defaults on outstanding loans;

(c) An amount to cover the cost of servicing loan accounts;

(d) An amount to cover the cost of making hardship loans (as provided for in Article VIII); and

(e) An amount to cover the costs of issuing bonds. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.68. VARIABLE INTEREST RATE. In connection with a conventional RAP loan, the loan agreement may provide for a variable interest rate. If the loan agreement does provide for a variable interest rate, the terms of the loan agreement and any change in the interest rate or other charges shall conform to the requirements of Sections 37917 of the Health and Safety Code of the State of California relating to the use of variable interest rates in connection with financing residential rehabilitation. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.69. TENANT MOVING COSTS AND RIGHT OF FIRST REFUSAL. All conventional RAP loan agreements shall provide that, in the case of dwelling units which must be vacated because of residential rehabilitation to be performed on the structures where they are located:

(a) A tenant who must vacate a dwelling unit shall have the right of first refusal to occupy that unit at a rent adjusted in accordance with the San Francisco Administrative Code when rehabilitation of the property is completed;

(b) The property owner shall give each tenant affected written notice 30 days prior to the date the tenant must vacate of the following:

(1) That the tenant has the right to first refusal to reoccupy the unit vacated when rehabilitation of the property is completed;

(2) That relocation assistance may be available and that relocation information may be obtained from the Chief Administrative Officer, Room 289, City Hall, San Francisco; and

(3) That the tenant may be subject to certain protections under the Rent Ordinance and that information concerning such protection is available from the Rent Board, 170 Fell Street, Room 16, San Francisco.

(c) A copy of the notice specified in clause (b) shall be forwarded to the Rent Board. (Amended by Ord. 112-83, App. 3/11/83)

SEC. 32.70. OPEN HOUSING. All conventional RAP loan agreements shall provide that so long as the loan or any portion of it is outstanding the property shall be open upon sale or rental of all or any portion thereof, to all persons regardless of race, color, religion, national origin or ancestry. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.71. EQUAL EMPLOYMENT OPPORTUNITY. All conventional RAP loan agreements shall provide that all contracts and subcontracts let for residential rehabilitation financed under this Chapter are to be let without regard to the race, sex, marital status, color, religion, national origin or ancestry of the contractor or subcontractor. Further, all conventional RAP loan agreements shall provide that any contractor or subcontractor engaged in residential rehabilitation financed under this Chapter must agree to provide equal opportunity for employment without regard to race, sex, marital status, color, religion, national origin or ancestry. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.71-1. PERFORMANCE OF WORK BY LICENSED GENERAL BUILDING CONTRACTOR. A licensed general building contractor having in his or her contract more than two unrelated building trades or crafts may do or superintend the whole or any part of residential rehabilitation without regard to the provisions of Section E I of the Plumbing Code or Section 41 of the Electrical Code. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.72. ENFORCEMENT OF LOAN PROVISIONS. The provisions of Section 32.70 and the provisions of Section 32.71 is they relate to enforcement of nondiscrimination on the basis of race, sex, marital status, color, religion, national origin or ancestry, are enforceable by the Human Rights Commission. The enforcement powers, responsibilities and procedures of the Human Rights Commission set forth in Chapters 12A and 12B of the San Francisco Administrative Code shall be applicable to carry out the Commission's responsibilities under this Chapter. In addition, pursuant to rules to be adopted by the Chief Administrative Officer, violation of the loan agreement provisions required by Sections 32.69, 32.70, and 32.71 may result in any outstanding financing obtained pursuant to the loan agreement becoming immediately due and payable. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.73. RENT INCREASE LIMITATIONS FOR AREAS DESIGNATED PRIOR TO JULY 1, 1977. (a) The property owner shall agree that during the time any conventional RAP loan is outstanding, rent for any dwelling unit in the rehabilitated residence shall not exceed the base rent plus actual increased costs to the owner in the form of monthly loan payments, property taxes, insurance, maintenance, and annual adjustments tied to the Bay Area Cost of Living Index.

(b) The Chief Administrative Officer shall calculate the annual cost of living adjustment on the basis of the Bay Area cost of living index as of January 1st each year, and shall announce to both property owners and tenants the adjustment no later than 30 days following publication of such figures by the United States Department of Commerce.

(c) Base rent date is the 180th day preceding the date of designation of the area for residential rehabilitation by the Board of Supervisors or the date 10 days preceding the first public meeting conducted in a residential rehabilitation area by the Director of Planning, whichever is earlier in time.

(d) Base rent for a dwelling unit is the rent charged for this dwelling unit on the base rent date; except that if no rent was being charged on the base rent date, or if the property owner believes that the rent charged on the base rent date was unreasonably low due to special conditions, the property owner may petition the Chief Administrative Officer to establish a base rent or to revise the base. The Chief Administrative Officer shall give notice and an opportunity to comment in writing to tenants to be affected by the Chief Administrative Officer's decision. In establishing or revising the base rent, the Chief Administrative Officer shall take into consideration the rent charged on the base rent date for comparable units within the same building; the rent charged on the base rent date for comparable units in the immediate neighborhood; and any special or unusual circumstances affecting the rent charged on the base rent date for the subject unit.

(e) Any property owner who petitions the Chief Administrative Officer to establish or revise the base rent and any tenant occupying a unit for which such a petition is brought by the property owner may appeal the base rent to the Area Rent Committee. Unless the Area Rent Committee decides otherwise by a vote of three, the decision of the Chief Administrative Officer shall stand.

(f) The provisions of this Section shall apply in all residential rehabilitation areas designated by resolution of the Board of Supervisors pursuant to Section 32.43 prior to July 1, 1977. (Amended by Ord. 269-82, App. 6/10/82)

SEC. 32.73-1. RENT INCREASE LIMITATIONS FOR AREAS DESIGNATED ON OR AFTER JULY 1, 1977. (a) The property owner shall agree that during the time any conventional RAP loan is outstanding, rent for a tenant occupying a dwelling unit in the rehabilitated residence shall not exceed that rent which is allowable under Chapter 37 of the San Francisco Administrative Code.

(b) At the time the RAP loan is recorded, the Chief Administrative Officer shall notify the owner and each tenant of the allowable rent increase based upon the amortized loan. If a tenant believes that the allowable rent increase is inaccurate, the tenant may file a complaint with the Chief Administrative Officer within 30 days of notification. The procedures for handling the complaint follow:

(1) The Chief Administrative Officer shall investigate the tenant's complaint and shall render a decision not more than 30 days after receiving the complaint;

(2) If the Chief Administrative Officer determines that the complaint is valid, the property owner shall reduce the rent in accordance with this determination and rebate the excess amount collected within 15 days of notice of the decision.

(c) The Chief Administrative Officer shall notify the owner, each tenant and the Rent Board of the allowable rent increases as established in Subsection (a)

above. An owner shall only impose subsequent rent increases in accordance with the provisions set forth in Chapter 37 of the San Francisco Administrative Code. (Amended by Ord. 112-83, App. 3/11/83)

SEC. 32.74. RENT INCREASE PROTEST PROCEDURES. When a tenant believes that the rent for his or her dwelling unit has been increased above the amounts allowed under Section 32.73, or increased in excess of the limitations set forth in the Rent Ordinance (Chapter 37 of the San Francisco Administrative Code), the tenant may petition the Rent Board for a rental arbitration hearing. (Amended by Ord. 269-82, App. 6/10/82)

SEC. 32.75. SANCTIONS FOR VIOLATION OF RENT INCREASE LIMITATIONS. If a property owner refuses to rebate excess rent collected in violation of the provisions of Section 32.73, or fails to comply with the decision of the Rent Board with respect to a rent increase or increases for his or her tenants, the Rent Board shall refer the matter to the Chief Administrative Officer with a recommendation that the conventional RAP loan agreement be terminated. Upon such recommendation, the Chief Administrative Officer may terminate the agreement and the unpaid amount of the loan shall become due and payable immediately. In determining whether to declare a loan agreement terminated, the Chief Administrative Officer shall consider any recommendations of the Citizens Advisory Committee for the residential rehabilitation area where the property subject to the loan is located. (Amended by Ord. 269-82, App. 6/10/82)

SEC. 32.75-1. EVICTIONS. Tenants residing in buildings subject to RAP loans are subject to eviction only in accordance with Section 37.9 of the San Francisco Administrative Code. If the property owner evicts, attempts to evict, or threatens to evict tenants because the tenants are seeking to enforce their rights under this Chapter, the Chief Administrative Officer may declare the conventional RAP loan agreement terminated, and the unpaid amount of the loan shall immediately become due and payable. In determining whether to declare a loan agreement terminated, the Chief Administrative Officer shall consider any recommendations of the Citizens Advisory Committee for the residential rehabilitation area where the property subject to the loan is located. (Amended by Ord. 269-82, App. 6/10/82)

ARTICLE VIII

HARDSHIP LOANS

SEC. 32.80. USE OF HARDSHIP LOANS. Hardship loans are to be used only for meeting rehabilitation standards and incipient violations thereof. (Amended by Ord. 116-77, App. 4/1/77)

SEC. 32.81. MAXIMUM AMOUNT OF LOAN AND ELIGIBILITY. (a) A hardship loan of up to \$7,500 can be made to a low-income applicant who is the owner-occupant of a one-to-four dwelling unit building.

(b) To be eligible for a hardship loan the applicant must demonstrate to the satisfaction of the Chief Administrative Officer that: (1) the applicant's income does not exceed 80 percent of the median family income of the San Francisco-Oakland Standard Metropolitan Statistical Area as determined by the United States Department of Housing and Urban Development (HUD); and (2) that the applicant does not have other assets to correct housing code violations without jeopardizing the ability to be self supporting.

(c) An applicant whose income exceeds the standards promulgated by HUD, as described in Section (b) above, may appeal to the Loan Committee for approval of a hardship loan when age, health, physical handicap or size of family require unusual expenditures by applicant. (Amended by Ord. 31-81, App. 1/9/81)

SEC. 32.82. TERM OF HARDSHIP LOAN. A hardship loan shall be due and payable at the time of sale or transfer of property unless the hardship loan is transferred pursuant to Section 32.83. (Amended by Ord. 410-77, App. 9/16/77)

SEC. 32.83. TRANSFERABILITY OF HARDSHIP LOAN. (a) Upon conveyance of property subject to a hardship loan, the hardship loan may be converted to a conventional RAP loan and assigned to the transferee of the property under the same circumstances and upon the same terms as are applicable to the transfer of a conventional RAP loan as provided in Section 32.66. The total remaining period of the loan may not extend beyond 20 years from the date of the original loan.

(b) Upon transfer of property subject to a hardship loan, or an interest therein, to a spouse or heir who is otherwise eligible for a hardship loan, if the spouse or heir so chooses, the hardship loan shall be transferred to the spouse or heir.

If the owner of property subject to a hardship loan dies, and the hardship loan is not repaid or transferred to another person within one year of the owner's death, the loan shall as of one year from the date of the owner's death, bear interest at the then current interest rate charged for conventional RAP loans which were made in the same year as the hardship loan. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.84. USE IN CONJUNCTION WITH THE CONVENTIONAL REHABILITATION ASSISTANCE PROGRAM LOAN. A conventional rehabilitation assistance loan may be used to supplement a hardship loan provided the property owner otherwise qualifies for a conventional RAP loan. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.85. SECURITY. Unless provided otherwise in any bond resolution issued pursuant to the provisions of this Chapter, hardship loans shall be secured by a deed of trust naming the City and County as beneficiary of the trust. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.86. ADDITIONAL LOAN TERMS. Each provision required to be contained in a conventional RAP loan agreement pursuant to Section 32.69 through 32.75-1 shall also be contained in each hardship loan agreement. (Amended by Ord. 269-82, App. 6/10/82)

SEC. 32.87. SOURCE OF FUNDS. Any funds given to received by the City and County specifically for the purpose of establishing a hardship loan fund may be accepted by the Chief Administrative Officer and may be accepted by that purpose. In addition, the Board of Supervisors may, from time to time, appropriate funds for a hardship loan fund. (Added by Ord. 23-74, App. 1/9/74)

ARTICLE IX

MISCELLANEOUS PROVISIONS

SEC. 32.90. RELOCATION ASSISTANCE. (a) The Chief Administrative Officer shall by regulation approved by resolution of the Board of Supervisors establish the conditions of eligibility for relocation benefits and to describe the various types of benefits available to eligible persons who are displaced by Rehabilitation Assistance Program (RAP) activities and who do not receive benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(b) These are the services and assistance which will, at a minimum, be provided to all persons or businesses located in a RAP area:

(1) Not less than 90 days prior to displacement, residents of the RAP area shall be informed of the availability of various types of relocation benefits, the eligibility requirements for relocation benefits and the procedures for obtaining relocation benefits.

(2) Current and continuing information on the availability and cost of comparable housing and comparable commercial properties and locations will be maintained and available to the public at the Central Relocation Services Office.

(3) Information concerning federal and state housing programs, disaster loan and other programs administered by the Small Business Administration, and other federal or state programs offering assistance to displaced persons, will be available at the Central Relocation Services Office.

(4) Persons who believe that they have been discriminated against in the rehousing process will be referred to the Human Rights Commission for either action or referral to the appropriate law enforcement agencies. (Added by Ord. 116-77, App. 4/1/77)

SEC. 32.91. ADMINISTRATION OF RELOCATION ASSISTANCE. Central Relocation Services shall be responsible for administration of relocation benefits, including the provisions of general services. (Added by Ord. 116-77, App. 4/1/77)

SEC. 32.91-1. FINDER'S FEE. (a) Each individual or family who is eligible for replacement housing and who finds his or her own dwelling unit which is in code compliance shall be paid a finder's fee of \$50.

(b) Those relocated to hotels do not qualify for finder's fee. (Added by Ord. 462-78, App. 10/13/78)

SEC. 32.92. CONVERSION TO STATE OR FEDERAL PROGRAM. In the event that funds for rehabilitation loans become available through a state or federal program on more favorable terms than conventional RAP loans, every effort shall be made to convert to the use of such loans in existing Residential Rehabilitation Areas. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.93. AVAILABILITY OF REHABILITATION FINANCING IN FACE AREAS. (a) The rehabilitation financing provisions of the chapter shall be available to complete the projects in the three existing federally-assisted code enforcement areas: Bernal Heights, Duboce Triangle and Alamo Square. Nothing in this Chapter shall be construed or applied to prevent the proceeds of bonds issued pursuant to the provisions of this Chapter from being used to finance residential rehabilitation in these three areas. Financing for residential rehabilitation in these areas shall be the first priority for use of the proceeds of such bonds.

(b) The Citizens Advisory Committees previously established in Bernal Heights, Duboce Triangle and Alamo Square shall be the Citizens Advisory Committees required by this Chapter without regard to Section 32.30.

(c) For the purposes of this Chapter, Bernal Heights, Duboce Triangle and Alamo Square shall be deemed designated as Residential Rehabilitation Area as of the date on which this ordinance becomes effective. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.94. CONSTRUCTION AND EFFECT OF CHAPTER. The provisions of this Chapter, being necessary for the welfare of the City and County of San Francisco and its inhabitants, shall be liberally construed to effect its purposes. (Added by Ord. 23-74, App. 1/9/74)

SEC. 32.95. SEVERABILITY. If any provision of this Chapter, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the chapter and the applicability of such provisions to other persons and circumstances shall not be affected thereby. (Added by Ord. 23-74, App. 1/9/74)

CHAPTER 33**COMMISSION ON THE STATUS OF WOMEN**

- Sec. 33.1. Findings.
- Sec. 33.2. Declaration of Policy.
- Sec. 33.3. Executive Director.
- Sec. 33.4. Powers and Duties.
- Sec. 33.5. Cooperation with Other Groups and Individuals.
- Sec. 33.6. Reports.
- Sec. 33.7. Cooperation of Other City and County Entities.

SEC. 33.1. FINDINGS. (a) Because of tradition and prejudice, social, political, economic, cultural and educational restrictions on women through the years, women and girls have been denied by virtue of their gender, basic human rights resulting in inequities in economic, political, legal, cultural and social status. Despite obvious deprivations of opportunity to attain equality with men, women have made and continue to make substantial contributions in diverse areas of human activity and enterprise. Women have initiated movements for social and political emancipation, human welfare and world peace. The disadvantaged status of women and girls is, however, inimical to the public welfare in that it prevents women and girls from fully developing their individual potentials and from contributing fully to the cultural and economic life of the community. In view of the long tradition of according women and girls an inferior status in society, nothing less than a concerted effort at the national, State and local levels will result in true equality of the sexes.

(b) Despite remedial legislation and increased public awareness of the disparity in the treatment of women in our society, women and girls continue to be treated unequally. Women in the workforce continue to earn, on average, less than men. The skills and abilities that women bring to job fields that have not historically been open to them remain underutilized. Women continue to perform only a small percentage of City contracts. Women continue to constitute a disproportionate percentage of the population earning the minimum wage and/or living in poverty. In addition, reported cases of violence against women and girls have risen dramatically. Violence against women and girls now accounts for approximately one quarter of assault arrests and homicides in San Francisco.

(c) There is a continued need for a governmental body to monitor the status of women and girls, including the status and unique problems of women and girls of color, homeless women and girls, immigrant women and girls, lesbians and low-income women and girls, both within City and County government and in the private sector, to monitor complaints about unlawful and unequal treatment of women, to investigate inequalities, and to propose remedies. (Added by Ord. 28-75, App. 2/11/75; amended by Ord. 271-89, App. 7/28/89; Ord. 131-98, App. 4/17/98)

SEC. 33.2. DECLARATION OF POLICY. It is the policy of the City and County of San Francisco to give every inhabitant of the City and County, woman or man, girl or boy, equal economic, political, social and educational opportunities and to give equal services and protection by public agencies. It is the policy of the City and County of San Francisco to keep the public informed on developments in the legal

and social status of women and girls; to develop and distribute pertinent information and recommendations to the City and County agencies and to the general public; to provide expert advice and assistance to the offices, agencies, boards, departments, and employees of the City and County in undertaking efforts to assure equality in the treatment of the sexes; and to officially encourage private persons and groups to take steps to remove the barriers in the struggle of both women and men for equal opportunities resulting from tradition and prejudice as well as the educational, economic, political, legal and social restrictions of the past. It is the policy of the City and County of San Francisco that the Mayor, the Board of Supervisors, and all City and County commissions, boards and department heads shall consult with the Commission on matters relating to gender. (Added by Ord. 28-75, App. 2/11/75; amended by Ord. 271-89, App. 7/28/89; Ord. 287-96, App. 7/12/96; Ord. 131-98, App. 4/17/98)

SEC. 33.3. EXECUTIVE DIRECTOR. The Executive Director shall supervise the Commission's staff. In selecting the Commission's staff, the Executive Director shall consider the diverse makeup of the general public of San Francisco, including the racial, ethnic, age and sexual orientation groups in the City and County. The Executive Director shall also ensure that staff have demonstrated commitment and expertise in working on behalf of women's issues and gender equity. (Amended by Ord. 363-80, App. 8/7/80; Ord. 271-89, App. 7/28/89; Ord. 131-98, App. 4/17/98)

SEC. 33.4. POWERS AND DUTIES. The Commission shall have the power and the duty to:

(a) Prepare and disseminate educational and informational material relative to the role that tradition and prejudice and the deprivation of equal opportunities in areas such as education and employment have played in keeping women and girls of all races, creeds, ages, marital status and sexual orientation from developing their full individual potentials and from contributing fully to the cultural and economic life of the community;

(b) Hold public hearings on matters relevant to the general scope of the Commission, and to subpoena records and witnesses in connection with such hearings;

(c) Review national, State and local legislation which may have an impact on the status of women and girls and communicate the Commission's position regarding the proposed legislation to the appropriate legislative bodies, so long as the Commission's position on State and federal legislation does not conflict with any official position taken by the City and County;

(d) Analyze the composition of boards and commissions by gender and advise the Mayor and the Board of Supervisors on the equity of appointments. Develop and maintain a Talent Bank of Women which can be used in a variety of ways, including but not limited to assisting the Commission on the Status of Women in nominating qualified women for appointment by the Mayor to vacancies on boards and commissions of the City and County;

(e) Study, and make recommendations to the Mayor, the Board of Supervisors and departments to implement programs that promote the economic development of women. The Commission's responsibilities shall include, but not be limited to:

(1) Advocating the Human Resources Department to develop and implement programs that assist in recruiting and employing qualified women applicants for those positions filled through the Human Resources Department which traditionally employ few women; making recommendations regarding terminology used in job announcements, recruitment techniques, job qualifications, salary schedules, training and promotional practices,

(2) Studying job categories which traditionally are filled primarily by women or primarily by men to determine whether the rate of compensation in the traditionally female jobs compares reasonably and favorably with the rate of compensation in the traditionally male jobs, taking into consideration the training, experience, mental and physical effort and responsibility required and the working conditions involved, and take necessary steps to implement equity,

(3) Studying and making recommendations regarding the special employment problems of women, including but not limited to the need for family-friendly policies, part-time employment options, child care centers, on-the-job training and retraining for those who have been out of the employment market for extended periods and "glass-ceiling issues",

(4) Advising the Civil Service Commission and Human Resources Department on the form of reports regarding City and County employees and members of boards and commissions regarding sex, race, salary level, job classification and other statistical data, and to develop an analysis of the data in regard to the areas of concern to the Commission,

(5) Monitoring the reports of complaints of all forms of employment discrimination against women (including sexual harassment) received and forwarded by the Department of Human Resources and all other agencies, departments, boards and commissions of the City and County pursuant to Administrative Code Section 33.7, and consult with and make recommendations to the Department of Human Resources and all agencies, departments, boards and commissions of the City and County concerning the handling of such complaints,

(6) Assisting in the preparation of training programs and materials with respect to the economic development of and employment discrimination against women and girls, including sexual harassment, for City and County departments and agencies;

(f) Cooperate with and make recommendations to law enforcement agencies and officials concerning the treatment of women and girls in the City and County's correctional and juvenile justice system, the enforcement of laws which have a particular impact on women and girls, including but not limited to laws relating to violence against women and girls, rape and prostitution;

(g) Cooperate with and make recommendations to the Community College District and to the San Francisco Unified School District on the development and implementation of programs and practices which have the purpose of furthering the objectives of this ordinance, including but not limited to recommendations concerning in-service training, sex-role stereotyping in textbooks, sexual harassment, violence against women and girls and courses and methods of providing role models for female students who may be interested in areas of employment not traditionally filled by women;

(h) Provide information, guidance and technical assistance to other public agencies and private persons, organizations and institutions engaged in activities and programs intended to eliminate prejudice and discrimination against women and girls

because of their gender, and to serve as liaison between the public and private sectors on matters affecting women and girls in the community;

(i) Cooperate with and make written recommendations to the Board of Supervisors, the Mayor, City and County agencies, boards and commissions and City and County officials regarding the development and implementation of programs and practices for the purpose of furthering the objectives of this ordinance, including but not limited to, recommendations with respect to improving the City and County's procedures for enforcing prohibitions against all forms of discrimination against women and girls, including sexual harassment, within the City and County government and with its contractors;

(j) Investigate and mediate, at the request of a party and within the limitations of staff time and resources, all incidents of discrimination against women because of their status as women which are not within the exclusive jurisdiction of some federal or State agency or the Human Rights Commission, and make specific recommendations to the involved parties as to the methods for eliminating discrimination against women;

(k) Prepare, encourage and coordinate programs of voluntary action to reduce or eliminate existing inequalities and disadvantages in both the public and private sector resulting from prejudice, tradition and past discrimination against women and girls;

(l) Oversee and administer funds allocated to the Commission for programs regarding violence against women; receive reports from all City departments funding programs regarding violence against women;

(m) Review the programs and budget of any other City and County department or agency where there are reasonable grounds for believing that department or agency is not complying with this Article or is otherwise not protecting the rights of women and girls fully; and, if necessary, to request the Controller to perform a management or budget audit with respect to those deficiencies;

(n) Study and monitor all agencies, departments, boards and commissions of the City and County to identify patterns and practices that have a discriminatory effect upon women and girls;

(o) Carry out the provisions of Section 12K of the San Francisco Administrative Code implementing, locally, the principles of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);

(p) Coordinate with other City departments, policy bodies and community groups to develop an integrated services plan for women and girls. (Added by Ord. 28-75, App. 2/11/75; amended by Ord. 271-89, App. 7/28/89; Ord. 64-92, App. 2/28/92; Ord. 335-95, App. 10/27/95; Ord. 131-98, App. 4/17/98)

SEC. 33.5. COOPERATION WITH OTHER GROUPS AND INDIVIDUALS. The Commission shall consult with and maintain contact with groups and individuals who are concerned with the status of women and girls or who are primarily responsible for assuring gender equity and women's human rights. (Added by Ord. 28-75, App. 2/11/75; amended by Ord. 131-98, App. 4/17/98)

SEC. 33.6. REPORTS. The Commission shall render written reports of its activities to the Mayor and the Board of Supervisors not less than once every six months. (Added by Ord. 28-75, App. 2/11/75; amended by Ord. 271-89, App. 7/28/89; Ord. 131-98, App. 4/17/98)

SEC. 33.7. COOPERATION OF OTHER CITY AND COUNTY ENTITIES.

(a) The Mayor, Board of Supervisors, and each commission, board, department and agency of the City and County shall fully cooperate with the Commission in fulfilling the provisions and purposes of this Article and shall regularly consult with the Commission on matters relating to women.

(b) The Human Resources Department shall make quarterly reports to the Commission regarding all complaints of discrimination that it receives. The Human Resources Department's quarterly reports to the Commission on the Status of Women shall not contain information identifying the parties involved in the events giving rise to the complaint, but shall include: (1) the number of complaints filed that quarter and an identifier that the Commission can use to monitor the status of each complaint; (2) the specific type of discrimination alleged in each complaint filed; (3) the department, bureau or division in which each complaint arose; (4) the harm allegedly suffered by the complainant; (5) the cost to the department in handling the matter; (6) the status of all outstanding complaints, including, but not limited to a report that the complaint is being investigated or mediated; (7) the findings in all completed cases; and (8) what, if any, corrective action was taken. The Human Resources Department shall consult with the Commission concerning the manner in which such complaints are handled. The Human Resources Department and all other agencies, departments, boards and commissions of the City and County shall also send the Commission any and all reports they make to the Board of Supervisors and/or the Mayor concerning any type of employment discrimination against women (including sexual harassment). The Human Resources Department shall provide the Commission, upon request, access to pertinent, nonconfidential personnel information with respect to current City and County employees and applicants for employment including, but not limited to: (1) an employee's or applicant's eligibility or certification status; and (2) any workforce utilization or salary analysis performed by the Human Resources Department.

(c) The City Attorney shall submit to the Commission a monthly report of settlements, which includes lawsuits and claims filed by female employees of the City and County alleging employment discrimination. The report shall include: (1) the name of the case or claimant; (2) the nature of the case; (3) the damages allegedly suffered; and (4) the amount of the settlement. The City Attorney shall also provide, quarterly, a summary of litigation judgments in favor of and against the City and County, including all lawsuits filed by female employees alleging discrimination. The City Attorney shall alert the Commission to the filing of any lawsuit against the City and County alleging any form of discrimination against women and shall provide a monthly report of all administrative claims filed against the City, including any claims alleging discrimination against women. Upon request, the City Attorney shall forward to the Commission a copy of any complaint or claim filed with or served upon the City Attorney.

(d) All agencies, departments, boards and commissions of the City and County, with the exception of the City Attorney, shall make quarterly reports to the Commission regarding all complaints of gender or sex discrimination filed by their employees. The quarterly report shall include: (1) the number of complaints filed that quarter and an identifier that the Commission can use to monitor the status of each complaint; (2) the specific type of discrimination alleged in each complaint filed; (3) the department, bureau or division in which each complaint arose; (4) the harm allegedly suffered by the complainant; (5) the costs to the department in handling the matter; (6) the status of all outstanding complaints, including, but not limited to a report that the complaint is being investigated or mediated; (7) the findings in all completed cases; and (8) what, if any, corrective action was taken. All agencies, departments, boards and commissions of the City and County required to file such reports shall consult with the Commission concerning the manner in which such complaints shall be handled. (Added by Ord. 271-89, App. 7/28/89; amended by Ord. 64-92, App. 3/28/92; Ord. 287-96, App. 7/12/96; Ord. 131-98, App. 4/17/98)

CHAPTER 34

**NOTIFICATION TO ASSESSOR CONCERNING ZONING
RECLASSIFICATIONS OF PROPERTY, CONDITIONAL USE PERMITS
AND VARIANCES, REASSESSMENT OF PROPERTY**

**ARTICLE I
NOTIFICATION TO ASSESSOR**

- Sec. 34.1. Zoning Reclassification Enacted by Board of Supervisors.
- Sec. 34.2. Conditional Use Authorized by City Planning Commission.
- Sec. 34.3. Conditional Use; Appeal to Board of Supervisors.
- Sec. 34.4. Variance Granted by Zoning Administrator.
- Sec. 34.5. Variance; Appeal to Board of Appeals.

**ARTICLE II
REASSESSMENT OF PROPERTY**

- Sec. 34.6. Date of Reassessment.

**ARTICLE I
NOTIFICATION TO ASSESSOR**

SEC. 34.1. ZONING RECLASSIFICATION ENACTED BY BOARD OF SUPERVISORS. Whenever the Board of Supervisors shall, by ordinance, enact a zoning reclassification of property pursuant to Charter Section 7.501 and the City Planning Code, the Clerk of the Board of Supervisors shall, within 30 days after enactment, notify the Assessor of such action in writing. (Added by Ord. 113-75, App. 4/4/75)

SEC. 34.2. CONDITIONAL USE AUTHORIZED BY CITY PLANNING COMMISSION. Whenever the City Planning Commission shall, by resolution, authorize a conditional use pursuant to the City Planning Code, the Zoning Administrator shall immediately transmit a copy of such resolution to the Clerk of the Board of Supervisors, and the Clerk of the Board of Supervisors shall, within 30 days after the approval of such resolution, notify the Assessor of such action in writing. (Added by Ord. 113-75, App. 4/4/75)

SEC. 34.3. CONDITIONAL USE; APPEAL TO BOARD OF SUPERVISORS. Whenever the Board of Supervisors shall, by resolution, disapprove the decision of the City Planning Commission on appeal and authorize a conditional use, pursuant to Charter Section 7.501 and the City Planning Code, the Clerk of the Board of Supervisors shall, within 30 days after such authorization, notify the Assessor of such action in writing. (Added by Ord. 113-75, App. 4/4/75)

SEC. 34.4. VARIANCE GRANTED BY ZONING ADMINISTRATOR.

Whenever the Zoning Administrator shall issue a decision granting a variance pursuant to Charter Section 7.503 and the City Planning Code, the Zoning Administrator shall immediately transmit a copy of such decision to the Clerk of the Board of Supervisors; and the Clerk of the Board of Supervisors shall, within 30 days after such decision, notify the Assessor of such action in writing. (Added by Ord. 113-75, App. 4/4/75)

SEC. 34.5. VARIANCE; APPEAL TO BOARD OF APPEALS.

Whenever the Board of Appeals shall issue a decision granting or modifying a variance on appeal from the Zoning Administrator, pursuant to Charter Sections 4.105 and 4.106 and the City Planning Code, the Executive Secretary of the Board of Appeals shall immediately transmit a copy of such decision to the Clerk of the Board of Supervisors, and the Clerk of the Board of Supervisors shall, within 30 days after such decision, notify the Assessor of such action in writing. (Added by Ord. 113-75, App. 4/4/75; amended by Ord. 126-97, App. 4/9/97)

ARTICLE II**REASSESSMENT OF PROPERTY****SEC. 34.6. DATE OF REASSESSMENT.**

If, during the assessment year, the Assessor receives notice pursuant to the provisions of Article I hereof, he or she shall reappraise the property as of the next succeeding lien date, pursuant to the provisions of Section 402.2, Revenue and Taxation Code. (Added by Ord. 113-75, App. 4/4/75)

**CHAPTER 35
HOME-OWNERSHIP ASSISTANCE PROGRAM**

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ARTICLE I

IN GENERAL

SEC. 35.1. PURPOSE. This Chapter provides for the establishment, administration, and financing of the home-ownership assistance program of the City and County of San Francisco. The Board of Supervisors finds and declares that it is of vital importance to San Francisco to increase owner-occupancy of housing units among low-income persons and the elderly, and that the following public purposes will be served by this home-ownership program:

- (a) It will promote home-ownership opportunities for persons who might otherwise be denied such opportunities due to insufficient funds to make a down payment on housing.
- (b) It will decrease long-term housing costs for low income and elderly persons.
- (c) It will increase owner-occupancy of residential buildings.

(d) It will improve the quality of living conditions in the City and County by encouraging property and neighborhood maintenance.

(e) It will assist in maintaining and improving the existing diversity of San Francisco's neighborhoods.

The methods to be used in carrying out the purposes of this program consist of down payment assistance loans, emergency loan supplements, home-ownership counseling services, and publicity on the nature and benefits of the program.

The Board of Supervisors recognizes the innovative nature of the program, and acknowledges the difficulties associated with its initial implementation. In this regard, the Board declares that this is a pilot program which shall be instituted on a trial basis in a specially designated program area. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.2. REFERENCE TO PUBLIC OFFICIALS AND PUBLIC AGENCIES. Unless otherwise indicated, all public officials and public agencies named in this Chapter are officials and agencies of the City and County. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.3. DEFINITIONS. (a) "Director of Property" means the head of the Real Estate Department and his or her designee.

(b) "Program" means the home-ownership assistance program established in this Chapter.

(c) "Program loan" means either a down payment assistance loan or an emergency loan supplement.

(d) "Residential property" means a living unit which is to be the residence of the holder of a program loan. The residence may be a single family dwelling or a condominium unit, a community apartment, or a stock cooperative as follows:

(1) A community apartment is an estate in real property consisting of an undivided interest in common in a parcel of real property and the improvements thereon coupled with the right of exclusive occupancy of any apartment located therein.

(2) A condominium is an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on the real property.

(3) Stock cooperative is a corporation which is formed or availed of primarily for the purpose of holding title to improved real property if all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the shares of stock in the corporation held by the person having the right of occupancy. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.4. SEVERABILITY. If any provision of this Chapter, or the application thereof to any person or circumstances, is held invalid, the validity of the remainder of the chapter and the applicability of such provision to other persons and circumstances shall not be affected thereby. (Added by Ord. 54-76, App. 3/5/76)

ARTICLE II

ELIGIBILITY

SEC. 35.10. ELIGIBILITY EVALUATION. There shall be two levels of evaluation for eligibility for financial assistance under the program:

(a) The preliminary evaluation which shall establish whether an applicant is eligible for preliminary involvement in the program, such as pre-loan social services and home-ownership counseling, receipt of information regarding available residential property, and receipt of information regarding sources of mortgage financing; and

(b) The final evaluation which shall result in approval or disapproval of the application for a down payment assistance loan. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.11. ELIGIBILITY FOR PRELIMINARY INVOLVEMENT. To be eligible for preliminary involvement in the program, an applicant should satisfy the following requirements:

(a) Be a resident in the program area as defined in Section 35.12 for at least one year;

(b) Be either an individual who is part of an elderly household or a low-income household as these terms are defined in Sections 35.13, 35.14 and 35.15;

(c) Establish proof of steady income as defined in Section 35.16 for the previous year; and

(d) Agree to participate in the counseling element of the program. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.12. "PROGRAM AREA." For the purposes of this chapter, "program area" means the geographical area known as the Haight-Ashbury neighborhood, which is the area generally bounded by Fulton Street, Baker Street, Buena Vista Avenue West, Upper Terrace, Seventeenth Street, and Stanyan Street. Program area shall also mean any additional area designated for participation in this program in an ordinance appropriating funds for the program. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.13. "HOUSEHOLD." For the purposes of this Chapter, either of the following groups of persons living together in a single-living unit constitutes a "household":

(a) One person, or two or more persons related by blood, marriage, adoption or by legal guardianship, and not more than three boarders; or

(b) A group of not more than five persons unrelated by blood, marriage, adoption or by legal guardianship. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.14. "ELDERLY HOUSEHOLD." For the purposes of this Chapter, an "elderly household" consists of either:

(a) A single person aged 62 or older; or

(b) A household in which the head of the household is aged 62 or older. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.15. "LOW-INCOME HOUSEHOLD." For the purposes of this Chapter, a "low-income household" is a household where the total combined incomes of the occupants do not exceed 80 percent of the median income for San Francisco as established by the Regional Office of the United States Department of Housing and Urban Development (HUD) in connection with administration of the Housing and Community Development Act 1974, P.L. 93-383; except that the Director of Property shall make appropriate adjustments to the HUD figures to take into account the number of persons in the household. Income shall be calculated from all sources of each person residing in the household, except that there shall be excluded:

(a) The annual income of any member of the household (other than the head of the household or his or her spouse) who is under 18 years of age, or is a full-time student;

(b) The first \$300 of the annual income of a secondary wage earner who is the spouse of the head of the household;

(c) An amount equal to \$300 for each member of the household (other than the head of the household or his or her spouse) who is 18 years of age or older and is disabled or handicapped, or a full-time student;

(d) Nonrecurring income;

(e) Five percent of the household's gross income (10 percent in the case of elderly households);

(f) Such extraordinary medical or other expenses as the Director of Property approves for exclusion; and

(g) An amount equal to the sums received by the head of the household or his or her spouse from, or under the direction of, any public or private nonprofit child placing agency for the care and maintenance of one or more persons who are under 18 years of age and were placed in the household by such agency. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.16. "STEADY INCOME." For the purposes of this Chapter, "steady income" shall be defined as income derived on a periodic basis and may include income from employment, investments, public assistance, or social security. (Added by Ord. 54-76, App. 3/5/76)

ARTICLE III

DOWN PAYMENT ASSISTANCE LOAN

SEC. 35.20. DOWN PAYMENT ASSISTANCE LOAN. The purpose of a down payment assistance loan is to enable low-income and elderly persons to make a down payment on residential property. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.21. MAXIMUM AMOUNT OF DOWN PAYMENT ASSISTANCE LOAN. A down payment assistance loan shall equal the personal down payment investment of the recipient of the loan, on a matching basis, up to a maximum of \$3,500. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.22. REPAYMENT OF A DOWN PAYMENT ASSISTANCE LOAN. A down payment assistance loan shall be interest-free with repayment of the principal amount of the loan amortized over a period of not less than five years or more than 10 years. The exact term of the loan shall be determined on a case by case basis by the Director of Property who shall give due consideration to the financial ability of the borrower of the loan and to the objective of keeping the borrower's total monthly housing cost equal to or less than the housing cost prior to purchasing the unit. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.23. LENGTH OF OWNERSHIP. Recipients of a down payment assistance loan must retain ownership of the residential property for a minimum of five years. In the event the unit is sold or transferred within five years from the date the loan was made, 50 percent of any capital gain earned as a result of the sale or transfer of the property subject to the loan shall be due and payable to the program, as well as the outstanding balance due on the loan. Capital gain shall be considered as being the remainder of the net recipients from the sale of the property after deducting both the acquisition costs to the borrower and costs of any improvements subsequently made. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.24. INSPECTION FOR COMPLIANCE WITH HOUSING CODES. All residential property being proposed for purchase with a down payment assistance loan shall be inspected for compliance with the San Francisco Housing Code prior to the granting of the loan. The Real Estate Department shall be responsible for securing qualified persons to perform the inspection at no cost to the applicant. Qualified persons shall mean construction inspectors, civil engineers or architects who shall be licensed by the State of California. The inspection report shall describe the work necessary to bring the property into code compliance and shall include an estimate of the cost of that work. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.25. ABATEMENT OF CODE VIOLATIONS. Code violations which constitute life hazards as defined by the Abatement Appeals Board must be abated within six months of the date of the purchase of the property subject to a down payment assistance loan. Code violations other than life hazards must be abated within the time limits set by the Abatement Appeals Board. Life hazards include but are not limited to the following: (a) a missing egress, (b) serious electrical hazards; (c) structural deficiencies; (d) unvented or unapproved gas appliances; and (e) lack of life sanitation facilities. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.26. APPROVAL OF DOWN PAYMENT ASSISTANCE LOANS. The Director of Property may approve a down payment assistance loan if he or she determines that the following criteria are met:

- (a) Residential property in the program area has been located for purchase and inspected pursuant to Section 35.24;
- (b) The applicant agrees in writing to undertake and complete a prescribed counseling program;

(c) With the down payment assistance loan, the applicant will have sufficient funds for the down payment required to purchase the property;

(d) There has been no change in the applicant's eligibility for preliminary involvement as set forth in Section 35.11; and

(e) Abatement of life hazards and code violations can be accomplished as required in Section 35.25, and that there will be sufficient funds therefor. (Added by Ord. 54-76, App. 3/5/76)

ARTICLE IV

EMERGENCY LOAN SUPPLEMENTS

SEC. 35.30. EMERGENCY LOAN SUPPLEMENT. The Director of Property shall establish an emergency loan fund to provide additional financial assistance to the holder of a down payment assistance loan when the condition of hardship as defined in Section 35.31 occurs. The emergency loan fund shall be maintained by the Director of Property in amounts necessary to satisfy the anticipated demands for these loans by the holders of down payment assistance loans. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.31. "CONDITION OF HARDSHIP." The "condition of hardship" exists when the holder of a down payment assistance loan is temporarily unable to meet the monthly financial obligation of mortgage payments, down payment assistance loan payments, insurance or taxes due to a loss or reduction of income because of illness, unemployment, or other similar circumstances. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.32. MAXIMUM AMOUNTS OF EMERGENCY LOAN SUPPLEMENT. The emergency loan supplement shall not exceed the amounts needed each month for mortgage payments, insurance, and taxes, and shall be disbursed on a monthly basis for a maximum period of three months. Holders of a down payment assistance loan may continue to apply for emergency loan supplements until the maximum amount is outstanding. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.33. REPAYMENT OF AN EMERGENCY LOAN SUPPLEMENT. An emergency loan supplement shall be interest-free. Repayment of the loan shall be pursuant to a schedule established by the Director of Property who in establishing the repayment schedule shall give due consideration to the financial situation of the borrower and to the objective of enabling the borrower to retain the property subject to a program loan, provided, however, any loan repayments to be made after the down payment assistance loan is paid shall be in an amount at least equal to the monthly payments the borrower was making on the down payment assistance loan except that the Director of Property may waive this requirement when waiver is necessary to enable the borrower to retain the property. (Added by Ord. 54-76, App. 3/5/76)

ARTICLE V**GENERAL PROGRAM LOAN TERMS**

SEC. 35.40. PREPAYMENT PENALTY. There shall be no penalty for prepayment of a program loan. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.41. SECURITY FOR A PROGRAM LOAN. Every program loan shall be secured by a deed of trust naming the City and County of San Francisco as beneficiary of the trust. Said deed of trust shall include provision for recapture of 50 percent of capital gain in the event of early resale of the property as provided in Section 35.23. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.42. PROPERTY INSURANCE. So long as any program loan, or portion thereof, is outstanding, the holder of the loan shall carry adequate insurance on the property. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.43. TRANSFER OF A PROGRAM LOAN. The unpaid amount of a program loan shall be due and payable upon sale or transfer of the ownership of the property, or death of the holder of the loan. Assignment of the unpaid amount of a program loan to a purchaser or a transferee may be permitted when the Director of Property determines that the prospective owner qualifies for the loan on the basis of prevailing loan eligibility standards. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.44. OWNERSHIP OCCUPANCY. Holders of a program loan must occupy the dwelling unit on which the program loan is secured. Use of property subject to a program loan for rental, lease, or other income purposes, except during temporary absences which shall not exceed a period of one year, will be grounds for termination of the loan at the discretion of the Director of Property. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.45. PARTICIPATION IN COUNSELING SERVICES. Every person found eligible for preliminary involvement in the program under Section 35.11 and every holder of a program loan shall be required to participate in counseling appropriate to his or her needs unless the Director of Property gives the person a written waiver from this requirement on the grounds that no counseling is needed. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.46. TERMINATION OF LOAN. If the holder of a program loan fails to comply with the terms of this Chapter, with program regulations, or with the terms of the loan agreement, the Director of Property may declare the outstanding amount of the program loan immediately due and payable. (Added by Ord. 54-76, App. 3/5/76)

ARTICLE VI**COUNSELING SERVICES**

SEC. 35.50. PURPOSES OF COUNSELING SERVICES. The purpose of the counseling services component of the home-ownership assistance program is

to aid participants in all aspects of home-ownership in order to improve and maintain the financial stability and self-sufficiency of each assisted household. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.51. COORDINATION. The Real Estate Department shall coordinate counseling services through agreements with either paid or volunteer community services or counseling organizations. It shall be the policy of the Real Estate Department to reduce the cost of providing counseling services to program participants by facilitating the use of free or reduced fee counseling services wherever possible. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.52. SCOPE OF COUNSELING SERVICES. Every effort shall be made to include as part of the counseling available counseling in areas relevant to the responsibilities of home-ownership, including legal services, mortgage financing, real estate and tax information, family financial management, and home maintenance training. (Added by Ord. 54-76, App. 3/5/76)

ARTICLE VII

COMMUNITY LOAN BOARD AND APPEAL PROCEDURES

SEC. 35.60. COMMUNITY LOAN BOARD — MEMBERSHIP. There shall be a Community Loan Board for each program area consisting of 13 members, who are selected in the following manner:

(a) Two members of the Community Loan Board shall be appointed by the Director of Property; one shall be experienced in the field of real estate lending and financing, and one shall be a permanent employee of the Real Estate Department.

(b) Eleven members of the Community Loan Board shall be appointed by the Board of Supervisors, based on nominations to be submitted by each supervisor. Members of the Community Loan Board shall serve a term of two years. All appointees shall be residents of the program area for at least six months prior to their appointment. Nominations shall be solicited by the Board of Supervisors from the program area.

(c) All nominations, appointments, and elections necessary to carry out the purpose of this Section shall be in accordance with the rules and regulations promulgated by the Director of Property. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.61. COMMUNITY LOAN BOARD — FUNCTIONS. The functions of the Community Loan Board include the following:

(a) Consult with the Director of Property regarding appropriate rules and regulations for governing the implementation of the program;

(b) Develop by-laws for the operation of the Community Loan Board, which by-laws shall be subject to the approval of the Director of Property;

(c) Review final loan applications and make advisory recommendations to the Director of Property for approval or denial of program loans; and

(d) Such other duties as may from time to time be assigned by the Director of Property. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.62. DENIAL OF PRELIMINARY INVOLVEMENT OR OF A PROGRAM LOAN. Denial of an application for preliminary involvement or for a program loan shall be in writing and shall include a brief description of the basis for the denial. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.63. APPEAL FROM DENIAL OF PRELIMINARY INVOLVEMENT OR A PROGRAM LOAN. When an application for preliminary involvement or for a program loan has been denied by the Director of Property, the applicant may appeal the denial to the Community Loan Board which shall review the application and make a recommendation to the Director of Property whose decision after review of the Community Loan Board's recommendation of the application is final. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.64. EQUAL OPPORTUNITY. Participation in the program shall be open to all persons regardless of race, religion, color, ancestry, age, sex, sexual orientation, physical disability, place of birth, marital status, or the presence or absence of children. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.65. EQUAL OPPORTUNITY APPEAL. Any applicant who feels that his or her participation in the program has been denied by the Director of Property in violation of the equal opportunity provisions in Section 35.64 may appeal the denial to the Human Rights Commission. If the applicant appeals the denial to the Human Rights Commission, the Human Rights Commission shall investigate the matter and the Director of the Human Rights Commission shall recommend, in writing, findings and action to the Director of Property who shall make the final decision on the appeal. (Added by Ord. 54-76, App. 3/5/76)

ARTICLE VIII

ADMINISTRATION OF THE PROGRAM

SEC. 35.70. RESPONSIBILITY FOR ADMINISTRATION OF THE PROGRAM. Responsibility for the administration of the program shall rest with the Real Estate Department. The Director of Property shall have authority to make final determinations on all aspects of the program, but shall appoint a Program Coordinator to whom the Director shall delegate responsibility for day-to-day administration of the program. Administration of the program includes, but is not limited to, the following:

(a) Determining the eligibility for preliminary involvement in the program and approving or denying applications for program loans;

(b) Coordinating the counseling services component of the program by utilizing existing community service organizations or by establishing new counseling programs as necessary;

(c) Making all necessary factual determinations in connection with the administration of the program;

(d) Developing and maintaining a current list of properties in each program area that would be appropriate for purchase under the program;

(e) Assisting applicants for a down payment assistance loan in obtaining home-purchase financing at the lowest possible interest rates;

(f) Coordinating volunteers who wish to assist in carrying out the purposes of the program; and

(g) Maintaining records and establishing procedures to measure and promote the effectiveness of the program in carrying out its purposes. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.71. RULES AND REGULATIONS. The Director of Property shall promulgate such rules and regulations as are necessary to carry out the provisions of this program. The rules and regulations developed pursuant to this Section shall be developed after consultation with the Community Loan Board. Both draft and final rules and regulations shall be available for review by the public at places and at times to be determined by the Director of Property. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.72. PROGRAM PUBLICITY. In order to recruit eligible applicants for down payment assistance loans and to attract potential property sellers, the Director of Property shall publicize the home-ownership assistance program in program areas. Interested groups or organizations should be used in disseminating information concerning the existence, purposes, benefits, and availability of the program. (Added by Ord. 54-76, App. 3/5/76)

SEC. 35.73. COMMUNITY VOLUNTEER STAFF. The Director of Property may be assisted in carrying out his or her administrative functions by a volunteer staff, the members of which shall serve at the pleasure of, and be responsible to, the Director of Property. (Added by Ord. 54-76, App. 3/5/76)

CHAPTER 36**VICTIM/WITNESS ASSISTANCE PROGRAM**

- Sec. 36.1. Declaration of Policy.
- Sec. 36.2. Establishment, Composition, Policy Committee.
- Sec. 36.3. Powers and Duties.
- Sec. 36.4. Confidentiality of Records.
- Sec. 36.5. Funding.
- Sec. 36.6. Reports.
- Sec. 36.7. Severability.

SEC. 36.1. DECLARATION OF POLICY. It is hereby declared that the policy of the City and County of San Francisco is to provide assistance toward the rehabilitation of persons who suffer as a direct result of violent crime and, to the extent practicable, to assist, encourage, and facilitate the cooperation of the witnesses of crime with the criminal justice system except as to payment of rewards, which subject is covered by other provisions of local law.

The City and County of San Francisco hereby finds that more public cooperation with the criminal justice system is essential for the protection of the public from the ravages of crime. The City and County further finds that the reduction of crime and the furtherance of justice, both to persons accused of crime and to the general public, demand that the workings of the criminal justice system be accessible, sensitive, comprehensible, and rapid. (Added by Ord. 131-77, App. 4/21/77)

SEC. 36.2. ESTABLISHMENT, COMPOSITION, POLICY COMMITTEE. (a) Subject to the budget, fiscal and civil service provisions of the Charter, there is hereby established a service to be known as the Victim/Witness Assistance Program in the City and County of San Francisco in the Office of the District Attorney, and a Policy Committee.

(b) The Policy Committee shall consist of the following persons or their designee: the District Attorney, the Chief of Police, the Public Defender, the Director of Health Care Services, the General Manager, Department of Social Services, the Chairperson of the Commission of the Aging, the Chairperson on the Commission of the Status of Women, the President of the San Francisco Barristers' Club, the Chair of the Public Protection Committee of the Board of Supervisors of the City and County of San Francisco, the Director of the Center for Special Problems, and the Director of Adult Probation. The Policy Committee shall elect a chairperson from among its members. The term of office as chairperson shall be for the calendar year or for that portion thereof remaining after each such chairperson is elected: Members of the Policy Committee shall serve as such without compensation.

(c) The Policy Committee shall oversee general policy implementation and shall determine the priority which various program goals shall be assigned. The Policy Committee shall meet monthly, or as necessary. It shall review the progress of the program, its service to both the victims of violent crime and to the witnesses thereof, and its ability to make the criminal justice system more effectively serve the community.

(d) The Policy Committee shall facilitate liaison with all interested institutions and community groups; it shall endeavor to create good working relationships with all volunteer service organizations. With the assurance of equal treatment of all victims and witnesses, it shall coordinate with among others, the Public Defender, the Juvenile Probation Department, the Municipal Court, the Superior Court, the Juvenile Court, the Department of Social Services, the Department of Public Health, the Sheriff, the State Board of Control, the Department of Vocational Rehabilitation, and various social service and community groups concerned with individuals affected with the criminal justice system. Emphasis shall be placed on assuring proper treatment of the victims of sexual assault and of domestic violence and victims who are senior citizens. The Policy Committee shall assure the concerns of both community and institutional interests with respect to treatment of victims and witnesses are carefully articulated and incorporated in policy implementation by the District Attorney.

(e) Subject to the budget, fiscal and Civil Service provisions of the Charter, an executive director shall be appointed and shall be responsible for the day-to-day program operations, including but not limited to supervision of staff and volunteer personnel, coordination with other institutional and community agencies, budgeting and recruitment and training volunteers.

(f) The Board of Supervisors, subject to its budgetary discretion and the successful application for Federal grants to support the program shall provide funds to pay for such personnel, services and facilities as may be reasonably necessary to enable the District Attorney to exercise his powers and perform his duties under this ordinance. (Amended by Ord. 195-82, App. 4/16/82)

SEC. 36.3. POWERS AND DUTIES. The program shall provide, to the extent it is feasible, the following:

(a) **Liaison Services.** Program staff shall provide liaison services for victims and witnesses of crimes to better enable these persons to participate in and fully understand the criminal justice system. The staff shall, for both victims and witnesses, including those involved with the Juvenile Court and the Youth Guidance Center:

(1) Assure that victims and witnesses are made aware of exactly what is expected of them by the judicial system and the purpose of various steps in the investigation and litigation.

(2) Assure that all persons who work with victims of sexual assault and family violence are made sensitive to the special problems peculiar to the victims of such crimes.

(3) Assure that victims and witnesses are kept apprised of the progress of the case in which they are involved.

(4) Establish an on-call system (whereby victims and witnesses may avoid long waits) to notify persons scheduled to appear when, in reality, their appearance will be required.

(5) Assist and educate witnesses in participating in the criminal justice process.

(6) Encourage victims and witnesses to develop a more positive attitude toward the criminal justice system, and to cooperate more fully with police, the district attorney, and the public defender and private defense counsel.

(7) Encourage criminal justice agencies, including the police, the district attorney, the public defender and private defense counsel, to give more consideration and personal attention to victims and witnesses.

(8) Provide bilingual assistance (in both Spanish and Chinese) to victims and witnesses with little or no familiarity with English.

(b) **Services Assistance.** The program staff will assist victims of crime in obtaining a quicker recovery from the effects of violent crime by providing referral and assistance to victims and witnesses to crimes. The services shall include, among others:

(1) Provision of liaison and referral to special counseling facilities for the victims of violent sexual assault and domestic violence.

(2) Making proper referrals to community service agencies in order to assure that victims suffering from emotionally traumatic assaults may recover as expeditiously as possible.

(3) Referral of injured victims, as appropriate, to rehabilitation facilities.

(4) Establishment of a child-care and transportation capability for victims and witnesses who need such services in order to attend court appearances and interviews.

(c) **Economic Assistance.** The project staff shall:

(1) Increase the number of qualified applicants for State Compensation to victims of violent crime.

(2) Reduce the time required for victims to receive State Compensation; assist victims in preparing complete and detailed claims; assist the State by providing local verification and evaluation.

(3) Provide liaison with local welfare authorities for victims in need of immediate financial assistance.

(d) **Research and Evaluation.** The research and evaluation component shall gather and classify data on victims of violent crimes by area, type of offense, service needs, cost of county benefits, cost for State Compensation, response by authorities, processing and turn-around times, socio-economic status, and attitudes towards the criminal justice system; the research and evaluation component will gather, classify and keep data on witnesses in criminal proceedings by area, type of proceeding, service needs, costs for fees, time spent in service, and attitudes towards the criminal justice system, and make determinations relative to cost-effectiveness for the provision of services to witnesses. The research and evaluation component shall prepare a year-end report on the effectiveness of the program.

(e) **Volunteers.** All program components shall provide a means for volunteers approved by the Policy Committee to work within the criminal justice system and will promote cooperative educational programs for students in criminal justice and related fields. The services and offices of the Volunteer Service Bureau of the Bay Area Crusade shall be used to the maximum extent possible. Program staff shall provide community education and publicity in order to make citizens aware of the availability of victim/witness services.

(f) The above enumerated powers and duties shall not be deemed exclusive. The Program's Policy Committee shall have the power to adopt and to direct its staff to undertake other duties reasonably related to, or necessary for, the assistance of the victims of crime. (Added by Ord. 131-77, App. 4/21/77)

SEC. 36.4. CONFIDENTIALITY OF RECORDS. All information and data collected from and regarding individual victims (and/or relating to particular witnesses, defendants or prospective defendants) shall remain confidential. No action taken by the Policy Committee shall contravene prohibitions against disclosure of confidential criminal records as contained in the California Penal Code, the California Government Code, regulations of the State Attorney General, or laws or regulations promulgated or administered or enforced by the U.S. Department of Justice. The District Attorney shall advise the Policy Committee on all matters regarding the confidentiality of criminal records. (Added by Ord. 131-77, App. 4/21/77)

SEC. 36.5. FUNDING. The program may request, solicit, receive and disburse funds from governmental and nongovernmental sources under the provisions of Article XV, Sections 10.170 and 10.170-1 of the San Francisco Administrative Code. (Added by Ord. 131-77, App. 4/21/77)

SEC. 36.6. REPORTS. On the first Monday of March, the District Attorney shall submit an annual report to the Board of Supervisors and to members of the Policy Committee. Such report shall include, but not be limited to, a review of the status of services to victims, recommendations for the development and coordination of services for victims, progress made by the office in performing its duties, and a statement of goals for the following year. (Added by Ord. 131-77, App. 4/21/77)

SEC. 36.7. SEVERABILITY. If any part or provision of this ordinance, or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end the provisions of this ordinance are severable. (Added by Ord. 131-77, App. 4/21/77)

CHAPTER 36A**VICTIMS OF VIOLENCE ADVISORY COMMITTEE**

- Sec. 36A.1. Establishment; Advisory Committee.
Sec. 36A.2. Composition.
Sec. 36A.3. Purpose and Duties, Report.

SEC. 36A.1. ESTABLISHMENT; ADVISORY COMMITTEE. There is hereby established a Victims of Violence Advisory Committee (hereinafter referred to as "Advisory Committee") composed of representatives from City departments and community agencies for the purpose of analyzing data and policies relating to the services provided to victims of violent crimes and advising the Board of Supervisors of recommendations to develop and coordinate services for individuals affected by violent crime. The Advisory Committee shall also facilitate coordination of services and sharing of resources among community agencies and City departments that serve victims of violence. (Added by Ord. 165-91, App. 5/1/91)

SEC. 36A.2. COMPOSITION. The Victims of Crime Advisory Committee shall be composed of 19 members. Each member of the Board of Supervisors shall appoint one member to the Advisory Committee, and appointees shall represent community organizations which provide victim services. Five of the 11 initially appointed members, as determined by lot, shall be appointed to two-year terms, and the remaining six members, as well as all members subsequently appointed to serve full terms, shall be appointed to four-year terms. The remaining eight members of the Committee shall be composed of: (a) one representative from each of the following six City departments as designated by the head of his or her department: Department of Social Services, Department of Public Health — Division of Mental Health, District Attorney, Adult Probation Department, Police Department, and Juvenile Probation Department; (b) the Presiding Judge of the Superior Court and the Presiding Judge of the Municipal Court shall each designate an appropriate representative, and such representatives shall also serve as members of the Advisory Committee. These eight designated members shall serve at the pleasure of their appointing authority. All Advisory Committee members shall serve without compensation and may be reappointed.

In making their appointments, the Supervisors shall consult with persons and organizations interested and providing services to victims of violence. The appointees to the Advisory Committee shall be residents of the City and County of San Francisco, and shall be broadly representative of the various community interests in San Francisco. (Added by Ord. 165-91, App. 5/1/91)

SEC. 36A.3. PURPOSE AND DUTIES, REPORT. The Advisory Committee shall submit to the Board of Supervisors a report analyzing data and findings relating to community and City services provided to victims of violence, and such report shall include, but not be limited to, recommendations regarding the following:

- (1) The organizational structure that imparts victim services;
- (2) Policies that affect the development of programs to serve effectively victims of violence;

(3) The interagency and interdepartment organization that facilitates the coordination of services and sharing of resources.

The Advisory Committee shall provide a public forum for the purpose of soliciting suggestions and recommendations from the general public as to the most appropriate ways of providing services to victims of violence and forming recommendations to maintain consumer guided services. The Advisory Committee shall review the public testimony, and shall include a summary and analysis of said testimony in its report to the Board of Supervisors.

The Advisory Committee shall annually submit a report to the Board of Supervisors, the first one of which shall be due within one year of the appointment of all initial members to the Committee. (Added by Ord. 165-91, App. 5/1/91)

CHAPTER 37**RESIDENTIAL RENT STABILIZATION AND
ARBITRATION ORDINANCE**

- Sec. 37.1. Title and Findings.
- Sec. 37.2. Definitions.
- Sec. 37.3. Rent Limitations.
- Sec. 37.4. Establishment; Appointment; Terms; Executive Director; Funding; Compensation.
- Sec. 37.5. Meetings of the Board.
- Sec. 37.6. Powers and Duties.
- Sec. 37.7. Certification of Rental Increases for Capital Improvements, Rehabilitation and Energy Conservation Measures.
- Sec. 37.8. Arbitration of Rental Increase Adjustments.
- Sec. 37.8A. Expedited Hearing Procedures.
- Sec. 37.8B. Expedited Hearing and Appeal Procedures for Capital Improvements Resulting from Seismic Work on Unreinforced Masonry Buildings Pursuant to Building Code Chapters 14 and 15 Where Landlords Performed the Work with a UMB Bond Loan.
- Sec. 37.9. Evictions.
- Sec. 37.9A. Tenant Rights in Certain Displacements.
- Sec. 37.9B. Tenant Rights in Evictions Under Section 37.9(a)(8).
- Sec. 37.10A. Misdemeanors.
- Sec. 37.11A. Civil Actions.
- Sec. 37.12. Transitional Provisions.
- Sec. 37.13. Severability.

SEC. 37.1. TITLE AND FINDINGS. (a) The Chapter shall be known as the Residential Rent Stabilization and Arbitration Ordinance.

(b) The Board of Supervisors hereby finds:

(1) There is a shortage of decent, safe and sanitary housing in the City and County of San Francisco resulting in a critically low vacancy factor.

(2) Tenants displaced as a result of their inability to pay increased rents must relocate but as a result of such housing shortage are unable to find decent, safe and sanitary housing at affordable rent levels. Aware of the difficulty in finding decent housing, some tenants attempt to pay requested rent increases, but as a consequence must expend less on other necessities of life.

This situation has had a detrimental effect on substantial numbers of renters in the City and County, especially creating hardships on senior citizens, persons on fixed incomes and low and moderate income households.

(3) The problem of rent increases reached crisis level in the Spring of 1979. At that time the Board of Supervisors conducted hearings and caused studies to be made on the feasibility and desirability of various measures designed to address the problems created by the housing shortage.

(4) In April, 1979, pending development and adoption of measures designed to alleviate the City and County's housing crisis, the Board of Supervisors adopted Ordinance No. 181-79, prohibiting most rent increases on residential rental properties for 60 days. Ordinance No. 181-79 is scheduled to expire no later than June 30, 1979.

(5) The provisions of Ordinance No. 181-79 have successfully reduced the rate of rent increases in the City and County, along with the concomitant hardships and displacements. However, a housing shortage still exists within the City and County of San Francisco and total deregulation of rents at this time would immediately lead to widespread exorbitant rent increases and recurrence of the crisis, problems and hardships which existed prior to the adoption of the moratorium measures.

(6) This ordinance shall be in effect for 15 months. During this time, a Citizens' Housing Task Force shall be created to conduct a further study of and make recommendations for, the problems of housing in San Francisco. In the interim, some immediate measures are needed to alleviate San Francisco's housing problems. This ordinance, therefore, creates a Residential Rent Stabilization and Arbitration Board in order to safeguard tenants from excessive rent increases and, at the same time, to assure landlords fair and adequate rents consistent with Federal Anti-Inflation Guidelines.

(c) The people of San Francisco hereby find and declare:

(1) Present law provides that the annual allowable rent increase shall be 60 percent of the Consumer Price Index but in no event less than four percent of the tenant's base rent.

(2) Rent increases of 60 percent of the Consumer Price Index are sufficient to assure landlords fair and adequate rents consistent with Federal Anti-Inflation Guidelines.

(3) Since 1984, 60 percent of the Consumer Price Index has been less than four percent per year, so landlords have been able to impose yearly rent increases above the rate of inflation since 1984.

(4) Under the current four percent floor, landlords have received more than 60 percent of the Consumer Price Index with resulting hardship to tenants.

(5) Therefore, in order to alleviate this hardship to tenants and to ensure that landlords receive fair and adequate rents consistent with Federal Anti-Inflation Guidelines, we hereby amend this ordinance to delete the current four percent floor on annual rent increases. (Added by Ord. 276-79, App. 6/12/79)

SEC. 37.2. DEFINITIONS. (a) **Base Rent.** (1) That rent which is charged a tenant upon initial occupancy plus any rent increase allowable and imposed under this Chapter; provided, however, that base rent shall not include increases imposed pursuant to Section 37.7 below or utility passthroughs or general obligation passthroughs pursuant to Section 37.2(q) below. Base rent for tenants of RAP rental units in areas designated on or after July 1, 1977, shall be that rent which was established pursuant to Section 32.73-1 of the San Francisco Administrative Code. Rent increases attributable to the City Administrator's amortization of an RAP loan in an area designated on or after July 1, 1977, shall not be included in the base rent.

(2) From and after the effective date of this ordinance, the base rent for tenants occupying rental units which have received certain tenant-based or project-based rental assistance shall be as follows:

(A) With respect to tenant-based rental assistance:

(i) For any tenant receiving tenant-based assistance as of the effective date of this ordinance (except where the rent payable by the tenant is a fixed percentage of the tenant's income, such as in the Section 8 certificate program and the rental subsidy program for the HOPWA program), and continuing to receive tenant-based rental assistance following the effective date of this ordinance, the base rent for each unit occupied by such tenant shall be the rent payable for that unit under the Housing Assistance Payments contract, as amended, between the San Francisco Housing Authority and the landlord (the "HAP contract") with respect to that unit immediately prior to the effective date of this ordinance (the "HAP" contract rent").

(ii) For any tenant receiving tenant-based rental assistance (except where the rent payable by the tenant is a fixed percentage of the tenant's income, such as in the Section 8 certificate program and the rental subsidy program for the HOPWA program), and commencing occupancy of a rental unit following the effective date of this ordinance, the base rent for each unit occupied by such a tenant shall be the HAP contract rent in effect as of the date the tenant commences occupancy of such unit.

(iii) For any tenant whose tenant-based rental assistance terminates or expires, for whatever reason, following the effective date of this ordinance, the base rent for each such unit following expiration or termination shall be the HAP contract rent in effect for that unit immediately prior to the expiration or termination of the tenant-based rental assistance.

(B) For any tenant occupying a unit upon the expiration or termination, for whatever reason, of a project-based HAP contract under Section 8 of the United States Housing Act of 1937 (42 USC Section 1437f, as amended), the base rent for each such unit following expiration or termination shall be the "contract rent" in effect for that unit immediately prior to the expiration or termination of the project-based HAP contract.

(C) For any tenant occupying a unit upon the prepayment or expiration of any mortgage insured by the United States Department of Housing and Urban Development ("HUD"), including but not limited to mortgages provided under Sections 221(d)(3), 221(d)(4) and 236 of the National Housing Act (12 USC Section 1715z-1), the base rent for each such unit shall be the "basic rental charge" (described in 12 USC 1715z-1(f), or successor legislation) in effect for that unit immediately prior to the prepayment of the mortgage, which charge excludes the "interest reduction payment" attributable to that unit prior to the mortgage prepayment or expiration.

(b) **Board.** The Residential Rent Stabilization and Arbitration Board.

(c) **Capital Improvements.** Those improvements which materially add to the value of the property, appreciably prolong its useful life, or adapt it to new uses, and which may be amortized over the useful life of the improvement of the building.

(d) **CPI.** Consumer Price Index for all Urban Consumers for the San Francisco-Oakland Metropolitan Area, U.S. Department of Labor.

(e) **Energy Conservation Measures.** Work performed pursuant to the requirements of Article 12 of the San Francisco Housing Code.

(f) **Hearing Officer.** A person, designated by the Board, who arbitrates rental increase disputes.

(g) **Housing Services.** Services provided by the landlord connected with the use or occupancy of a rental unit including, but not limited to, repairs, replacement,

maintenance, painting, light, heat, water, elevator service, laundry facilities and privileges, janitor service, refuse removal, furnishings, telephone, parking and any other benefits, privileges or facilities.

(h) **Landlord.** An owner, lessor, sublessor, who receives or is entitled to receive rent for the use and occupancy of any residential rental unit or portion thereof in the City and County of San Francisco, and the agent, representative or successor of any of the foregoing.

(i) **Member.** A member of the Residential Rent Stabilization and Arbitration Board.

(j) **Over FMR Tenancy Program.** A regular certificate tenancy program whereby the base rent, together with a utility allowance in an amount determined by HUD, exceeds the fair market rent limitation for a particular unit size as determined by HUD.

(k) **Payment Standard.** An amount determined by the San Francisco Housing Authority that is used to determine the amount of assistance paid by the San Francisco Housing Authority on behalf of a tenant under the Section 8 Voucher Program (24 CFR Part 887).

(l) **RAP.** Residential Rehabilitation Loan Program (Chapter 32, San Francisco Administrative Code).

(m) **RAP Rental Units.** Residential dwelling units subject to RAP loans pursuant to Chapter 32, San Francisco Administrative Code.

(n) **Real Estate Department.** A city department in the City and County of San Francisco.

(o) **Rehabilitation Work.** Any rehabilitation or repair work done by the landlord with regard to a rental unit, or to the common areas of the structure containing the rental unit, which work was done in order to be in compliance with State or local law, or was done to repair damage resulting from fire, earthquake or other casualty or natural disaster.

(p) **Rent.** The consideration, including any bonus, benefits or gratuity, demanded or received by a landlord for or in connection with the use or occupancy of a rental unit, or the assignment of a lease for such a unit, including but not limited to monies demanded or paid for parking, furnishing, food service, housing services of any kind, or subletting.

(q) **Rent Increases.** Any additional monies demanded or paid for rent as defined in item (p) above, or any reduction in housing services without a corresponding reduction in the monies demanded or paid for rent; provided, however, that (1) where the landlord has been paying the tenant's utilities and cost of those utilities increase, the landlord's passing through to the tenant of such increased costs does not constitute a rent increase; and (2) where there has been a change in the landlord's property tax attributable to a ballot measure approved by the voters between November 1, 1996, and November 30, 1998, the landlord's passing through of such increased costs in accordance with this Chapter does not constitute a rent increase.

(r) **Rental Units.** All residential dwelling units in the City and County of San Francisco together with the land and appurtenant buildings thereto, and all housing services, privileges, furnishings and facilities supplied in connection with the use or occupancy thereof, including garage and parking facilities. The term shall *not* include:

(1) Housing accommodations in hotels, motels, inns, tourist houses, rooming and boarding houses, provided that at such time as an accommodation has been

occupied by a tenant for 32 continuous days or more, such accommodation shall become a rental unit subject to the provisions of this Chapter; provided further, no landlord shall bring an action to recover possession of such unit in order to avoid having the unit come within the provisions of this Chapter. An eviction for a purpose not permitted under Section 37.9(a) shall be deemed to be an action to recover possession in order to avoid having a unit come within the provisions of this Chapter;

(2) Dwelling units in nonprofit cooperatives owned, occupied and controlled by a majority of the residents or dwelling units solely owned by a nonprofit public benefit corporation governed by a board of directors the majority of which are residents of the dwelling units and where it is required in the corporate by-laws that rent increases be approved by a majority of the residents;

(3) Housing accommodation in any hospital, convent, monastery, extended care facility, asylum, residential care or adult day health care facility for the elderly which must be operated pursuant to a license issued by the California Department of Social Services, as required by California Health and Safety Chapters 3.2 and 3.3; or in dormitories owned and operated by an institution of higher education, a high school, or an elementary school;

(4) Except as provided in Subsections (A) and (B), dwelling units whose rents are controlled or regulated by any government unit, agency or authority, excepting those unsubsidized and/or unassisted units which are insured by the United States Department of Housing and Urban Development; provided, however, that units in unreinforced masonry buildings which have undergone seismic strengthening in accordance with Building Code Chapters 14 and 15 shall remain subject to the Rent Ordinances to the extent that the ordinance is not in conflict with the seismic strengthening bond program or with the program's loan agreements or with any regulations promulgated thereunder;

(A) For purposes of Sections 37.2, 37.3(a)(10)(A), 37.4, 37.5, 37.6, 37.9, 37.9A, 37.10A, 37.11A and 37.13, and the arbitration provisions of Sections 37.8 and 37.8A applicable only to the provisions of Sections 37.3(a)(10)(A), the term "rental units" shall include units occupied by recipients of tenant-based rental assistance where the tenant-based rental assistance program does not establish the tenant's share of base rent as a fixed percentage of a tenant's income, such as in the Section 8 voucher program and the "Over-FMR Tenancy" program defined in 24 CFR Section 982.4;

(B) For purposes of Sections 37.2, 37.3(a)(10)(B), 37.4, 37.5, 37.6, 37.9, 37.9A, 37.10A, 37.11A and 37.13, the term "rental units" shall include units occupied by recipients of tenant-based rental assistance where the rent payable by the tenant under the tenant-based rental assistance program is a fixed percentage of the tenant's income; such as in the Section 8 certificate program and the rental subsidy program for the Housing Opportunities for Persons with Aids ("HOPWA") program (42 U.S.C. Section 12901 et seq., as amended).

(5) Rental units located in a structure for which a certificate of occupancy was first issued after the effective date of this ordinance, except as provided in Section 37.9A(b) of this Chapter;

(6) Dwelling units in a building which has undergone substantial rehabilitation after the effective date of this ordinance; provided, however, that RAP rental units are not subject to this exemption.

(s) **Substantial Rehabilitation.** The renovation, alteration or remodeling of residential units of 50 or more years of age which have been condemned or which do not qualify for certificates of occupancy or which require substantial renovation in order to conform to contemporary standards for decent, safe and sanitary housing. Substantial rehabilitation may vary in degree from gutting and extensive reconstruction to extensive improvements that cure substantial deferred maintenance. Cosmetic improvements alone such as painting, decorating and minor repairs, or other work which can be performed safely without having the unit vacated do not qualify as substantial rehabilitation.

(t) **Tenant.** A person entitled by written or oral agreement, sub-tenancy approved by the landlord, or by sufferance, to occupy a residential dwelling unit to the exclusion of others.

(u) **Tenant-Based Rental Assistance.** Rental assistance provided directly to a tenant or directly to a landlord on behalf of a particular tenant, which includes but shall not be limited to certificates and vouchers issued pursuant to Section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. Section 1437f) and the HOPWA program.

(v) **Utilities.** The term "utilities" shall refer to gas and electricity exclusively. (Amended by Ord. 193-86, App. 5/30/86; Ord. 221-92, App. 7/14/92; Ord. 233-93, App. 7/22/93; amended by Proposition I, 11/8/94; Ord. 446-94, App. 12/30/94; Ord. 179-98, App. 5/29/98; Ord. 250-98, App. 7/31/98)

SEC. 37.3. RENT LIMITATIONS. (a) **Rent Increase Limitations for Tenants in Occupancy.** Landlords may impose rent increases upon tenants in occupancy only as provided below:

(1) **Annual Rent Increase.** On March 1st of each year, the Board shall publish the increase in the CPI for the preceding 12 months, as made available by the U.S. Department of Labor. A landlord may impose annually a rent increase which does not exceed a tenant's base rent by more than 60 percent of said published increase. In no event, however, shall the allowable annual increase be greater than seven percent.

(2) **Banking.** A landlord who refrains from imposing an annual rent increase or any portion thereof may accumulate said increase and impose that amount on the tenant's subsequent rent increase anniversary dates. A landlord who, between April 1, 1982, and February 29, 1984, has banked an annual seven percent rent increase (or rent increases) or any portion thereof may impose the accumulated increase on the tenant's subsequent rent increase anniversary dates.

(3) **Capital Improvements, Rehabilitation, and Energy Conservation Measures.** A landlord may impose rent increases based upon the cost of capital improvements, rehabilitation or energy conservation measures provided that such costs are certified pursuant to Sections 37.7 and 37.8B below; provided further that where a landlord has performed seismic strengthening in accordance with Building Code Chapters 14 and 15, no increase for capital improvements (including but not limited to seismic strengthening) shall exceed, in any 12 month period, 10 percent of the tenant's base rent, subject to rules adopted by the Board to prevent landlord hardship and to permit landlords to continue to maintain their buildings in a decent, safe and sanitary condition. A landlord may accumulate any certified increase which exceeds this amount and impose the increase in subsequent years, subject to the 10 percent

limitation. Nothing in this subsection shall be construed to supersede any Board rules or regulations with respect to limitations on increases based upon capital improvements whether performed separately or in conjunction with seismic strengthening improvements pursuant to Building Code Chapters 14 and 15.

(4) **Utilities.** A landlord may impose increases based upon the cost of utilities as provided in Section 37.2(q) above.

(5) **Charges Related to Excess Water Use.** A landlord may impose increases not to exceed 50 percent of the excess use charges (penalties) levied by the San Francisco Water Department on a building for use of water in excess of Water Department allocations under the following conditions:

(A) The landlord provides tenants with written certification that the following have been installed in all units: (1) permanently installed retrofit devices designed to reduce the amount of water used per flush or low-flow toilets (1.6 gallons per flush); (2) low-flow showerheads which allow a flow of no more than 2.5 gallons per minute; and (3) faucet aerators (where installation on current faucets is physically feasible); and

(B) The landlord provides the tenants with written certification that no known plumbing leaks currently exist in the building and that any leaks reported by tenants in the future will be promptly repaired; and

(C) The landlord provides the tenants with a copy of the water bill for the period in which the penalty was charged. Only penalties billed for a service period which begins after the effective date of the ordinance [April 20, 1991] may be passed through to tenants. Where penalties result from an allocation which does not reflect documented changes in occupancy which occurred after March 1, 1991, a landlord must, if requested in writing by a tenant, make a good-faith effort to appeal the allotment. Increases based upon penalties shall be prorated on a per-room basis provided that the tenancy existed during the time the penalty charges accrued. Such charges shall not become part of a tenant's base rent. Where a penalty in any given billing period reflects a 25 percent or more increase in consumption over the prior billing period, and where that increase does not appear to result from increased occupancy or any other known use, a landlord may not impose any increase based upon such penalty unless inspection by a licensed plumber or Water Department inspector fails to reveal a plumbing or other leak. If the inspection does reveal a leak, no increase based upon penalties may be imposed at any time for the period of the unrepaired leak.

(6) **Property Tax.** A landlord may impose increases based upon a change in the landlord's property tax resulting from the repayment of general obligation bonds of the City and County of San Francisco approved by the voters between November 1, 1996, and November 30, 1998 as provided in Section 37.2(q) above. The amount of such increase shall be determined for each tax year as follows:

(A) The Controller and the Board of Supervisors will determine the percentage of the property tax rate, if any, in each tax year attributable to general obligation bonds approved by the voters between November 1, 1996, and November 30, 1998, and repayable within such tax year.

(B) This percentage shall be multiplied by the total amount of the net taxable value for the applicable tax year. The result is the dollar amount of property taxes for that tax year for a particular property attributable to the repayment of general obliga-

tion bonds approved by the voters between November 1, 1996, and November 30, 1998.

(C) The dollar amount calculated under Subsection (B) shall be divided by the total number of all units in each property, including commercial units. That figure shall be divided by 12 months, to determine the monthly per unit costs for that tax year of the repayment of general obligation bonds approved by the voters between November 1, 1996, and November 30, 1998.

(D) Landlords may pass through to each unit in a particular property the dollar amount calculated under this Subsection (6). This passthrough may be imposed only on the anniversary date of each tenant's occupancy of the property. This passthrough shall not become a part of a tenant's base rent. The amount of each annual passthrough imposed pursuant to this Subsection (6) may vary from year-to-year, depending on the amount calculated under Subsections (A) through (C). Each annual passthrough shall apply only for the 12 month period after it is imposed. A landlord may impose the passthrough described in this Subsection (6) for a particular tax year only with respect to those tenants who were residents of a particular property on November 1st of the applicable tax year. A landlord shall not impose a passthrough pursuant to this Subsection (6) if the landlord has filed for or received Board approval for a rent increase under Section 37.8(e)(4) for increased operating and maintenance expenses in which the same increase in property taxes due to the repayment of general obligation bonds was included in the comparison year cost totals.

(E) The Board will have available a form which explains how to calculate the passthrough.

(F) Landlords must provide to tenants, at least 30 days prior to the imposition of the passthrough permitted under this Subsection (6), a copy of the completed form described in Subsection (E). This completed form shall be provided in addition to the Notice of Rent Increase required under Section 37.3(b)(5). A tenants may petition for a hearing under the procedure described in Section 37.8 where the tenant alleges that a landlord has imposed a charge which exceeds the limitations set forth in this Subsection (6). In such a hearing, the burden of proof shall be on the landlord. Tenant petitions regarding this passthrough must be filed within one year of the effective date of the passthrough.

(G) The Board may amend its rules and regulations as necessary to implement this Subsection (6).

(7) **RAP Loans.** A landlord may impose rent increases attributable to the City Administrator's amortization of the RAP loan in an area designated on or after July 1, 1977, pursuant to Chapter 32 of the San Francisco Administrative Code.

(8) **Additional Increases.** A landlord who seeks to impose any rent increase which exceeds those permitted above shall petition for a rental arbitration hearing pursuant to Section 37.8 of this Chapter.

(9) A landlord may impose a rent increase to recover costs incurred for the remediation of lead hazards, as defined in San Francisco Health Code Article 26. Such increases may be based on changes in operating and maintenance expenses or for capital improvement expenditures as long as the costs which are the basis of the rent increase are a substantial portion of the work which abates or remediates a lead hazard, as defined in San Francisco Health Code Article 26, and provided further that such costs are approved for operating and maintenance expense increases pursuant

to Section 37.8(e)(4)(A) and certified as capital improvements pursuant to Section 37.7 below.

When rent increases are authorized by this Subsection (a)(9), the total rent increase for both operating and maintenance expenses and capital improvements shall not exceed 10 percent in any 12 month period. If allowable rent increases due to the costs of lead remediation and abatement work exceed 10 percent in any 12 month period, a hearing officer shall apply a portion of such excess to approved operating and maintenance expenses for lead remediation work, and the balance, if any, to certified capital improvements, provided, however, that such increase shall not exceed 10 percent. A landlord may accumulate any approved or certified increase which exceeds this amount, subject to the 10 percent limit.

(10) With respect to units occupied by recipients of tenant-based rental assistance:

(A) If the tenant's share of the base rent is not calculated as a fixed percentage of the tenant's income, such as in the Section 8 voucher program and the Over-FMR Tenancy Program, then:

(i) If the base rent is equal to or greater than the payment standard, the rent increase limitations in Sections 37.3(a)(1) and (2) shall apply to the entire base rent, and the arbitration procedures for those increases set forth in Section 37.8 and 37.8A shall apply.

(ii) If the base rent is less than the payment standard, the rent increase limitations of this Chapter shall not apply; provided, however, that any rent increase which would result in the base rent being equal to or greater than the payment standard shall not result in a new base rent that exceeds the payment standard plus the increase allowable under Section 37.3(a)(1).

(B) If the tenant's share of the base rent is calculated as a fixed percentage of the tenant's income, such as in the Section 8 certificate program and the rental subsidy program for the HOPWA program, the rent increase limitations in Section 37.3(a)(1) and (2) shall not apply. In such circumstances, adjustments in rent shall be made solely according to the requirements of the tenant-based rental assistance program.

(b) **Notice of Rent Increase for Tenants in Occupancy.** On or before the date upon which a landlord gives a tenant legal notice of a rent increase, the landlord shall inform the tenant, in writing, of the following:

(1) Which portion of the rent increase reflects the annual increase, and/or a banked amount, if any;

(2) Which portion of the rent increase reflects costs for increased operating and maintenance expenses, rents for comparable units, and/or capital improvements, rehabilitation, or energy conservation measures certified pursuant to Section 37.7;

(3) Which portion of the rent increase reflects the passthrough of charges for gas and electricity, or bond measure costs described in Section 37.3(a)(6) above, which charges shall be explained in writing on a form provided by the Board as described in Section 37.3(a)(6)(E);

(4) Which portion of the rent increase reflects the amortization of the RAP loan, as described in Section 37.3(a)(7) above.

(5) **Nonconforming Rent Increases.** Any rent increase which does not conform with the provisions of this Section shall be null and void.

(6) With respect to rental units occupied by recipients of tenant-based rental assistance, the notice requirements of this Subsection (b) shall be required in addition to any notice required as part of the tenant-based rental assistance program.

(c) **Initial Rent Limitation for Subtenants.** A tenant who subleases his or her rental unit may charge no more rent upon initial occupancy of the subtenant or subtenants than that rent which the tenant is currently paying to the landlord.

(d) **Effect of Deferred Maintenance on Passthroughs for Lead Remediation Techniques.**

(1) When lead hazards, which have been remediated or abated pursuant to San Francisco Health Code Article 26, are also violations of State or local housing health and safety laws, the costs of such work shall not be passed through to tenants as either a capital improvement or an operating and maintenance expense if the hearing officer finds that the deferred maintenance, as defined herein, of the current or previous landlord caused or contributed to the existence of the violation of law.

(2) In any unit occupied by a lead-poisoned child and in which there exists a lead hazard, as defined in San Francisco Health Code Article 26, there shall be a rebuttable presumption that violations of State or local housing health and safety laws caused or created by deferred maintenance, caused or contributed to the presence of the lead hazards. If the landlord fails to rebut the presumption, that portion of the petition seeking a rent increase for the costs of lead hazard remediation or abatement shall be denied. If the presumption is rebutted, the landlord shall be entitled to a rent increase if otherwise justified by the standards set forth in this Chapter.

(3) For purposes of the evaluation of petitions for rent increases for lead remediation work, maintenance is deferred if a reasonable landlord under the circumstances would have performed, on a regular basis, the maintenance work required to keep the premises from being in violation of housing safety and habitability standards set forth in California Civil Code Section 1941 and the San Francisco Municipal Code. In order to prevail on a deferred maintenance defense, a tenant must show that the level of repair or remediation currently required would have been lessened had maintenance been performed in a more timely manner. (Added by Ord. 20-84, App. 1/19/84; amended by Ord. 338-87, App. 8/14/87; Ord. 102-91, App. 3/21/91; Ord. 127-91, App. 4/2/91; Ord. 221-92, App. 7/14/92; Proposition H, 11/3/92; Ord. 405-96, App. 10/21/96; Ord. 179-98, App. 5/29/98; Ord. 250-98, App. 7/31/98)

SEC. 37.4. ESTABLISHMENT; APPOINTMENT; TERMS; EXECUTIVE DIRECTOR; FUNDING; COMPENSATION. (a) There is hereby established a board to be known as the San Francisco Residential Rent Stabilization and Arbitration Board (hereinafter called "Board"), consisting of five members. Members, each of whom shall have a specific alternate having the same qualifications as the member, shall serve at the pleasure of the Mayor. All members and alternates shall be appointed by the Mayor.

(b) The Board shall consist of two landlords, two tenants, and one person who is neither a landlord nor a tenant and who owns no residential rental property; and an alternate for each specific member. All members shall be residents of the City and County of San Francisco.

(c) In accordance with applicable State law, all members shall disclose all present holdings and interests in real property, including interests in corporations, trusts or other entities with real property holdings.

(d) All members shall be appointed by the Mayor to serve 48-month terms. All vacancies occurring during a term shall be filled for the unexpired term.

(e) Commencing with the date upon which the first members take office, the Board shall elect a Chairman and Vice-Chairman from among its members.

(f) The position of Executive Director shall be established pursuant to and subject to Charter Sections 3.500 and 8.200. The person occupying the position of Executive Director shall be appointed by the Chairman of the Board with the approval of a majority of the members. All staff personnel shall be under the immediate direction and supervision of the Executive Director.

(g) Pursuant to the budgetary and fiscal provisions of the Charter, the Board of Supervisors shall provide funds to pay for staff personnel, services and facilities as may be reasonably necessary to enable the Board to exercise its powers and perform its duties under this Chapter. A special fund to be known as the Residential Rent Stabilization and Arbitration Fund shall be established under the supervision and direction of the Board for the receipt of fees under this Chapter, such fees to be appropriated by the Board of Supervisors for the operation of the Board.

(h) Subject to the budgetary and fiscal limitations of the Charter, each member shall be paid \$75 per Commission meeting attended if the meeting lasts for six hours or more in a single 24-hour period. The Commission shall adopt rules to allow for payment of an equitable portion of this per diem if a meeting lasts less than six hours. The total per diem shall not exceed \$750 per month. In addition, each member may

receive reimbursement for actual expenses incurred in the course and scope of the member's duties. (Amended by Ord. 435-86, App. 11/10/86; Ord. 162-93, App. 5/28/93)

SEC. 37.5. MEETINGS OF THE BOARD. (a) Time and place of meetings. The Board shall meet as often as necessary to stay current with the workload but in no event less than once a month. The time and place of meetings shall be determined by rules adopted by the Board. The first meeting shall be held within 15 days of the appointment of the first Board. The matter of establishing standards for the selection of hearing officers shall be considered at the first meeting.

(b) Quorum. A quorum for the transaction of official business shall consist of a majority of the total Board members. No action may be taken by the Board at any meeting attended by less than the quorum. A decision by the Board shall require a majority of all of the members of the Board.

(c) Special meetings. The Board may hold special meetings in accordance with Charter Section 3.500.

(d) Meetings open and public. All meetings of the Board shall be open and public in accordance with the Charter and applicable State law. (Added by Ord. 276-79, App. 6/12/79)

SEC. 37.6. POWERS AND DUTIES. In addition to other powers and duties set forth in this Chapter, and in addition to powers under the Charter, the Board shall have the power to:

(a) Promulgate policies, rules and regulations to effectuate the purposes of this Chapter;

(b) Hire such staff, including hearing officers, as may be reasonably necessary to perform its functions, and promulgate standards for all such staff, subject to the Civil Service provisions of the Charter;

(c) Conduct rental arbitration hearings and administer oaths and affirmations in connection with such hearings;

(d) Publish, on March 1st of each year, the increase in the CPI for the preceding 12 months, as made available by the U.S. Department of Labor;

(e) Make studies and surveys and conduct such hearings as necessary to perform its functions;

(f) Report biannually to the Mayor and the Board of Supervisors on its activities and on progress made towards the achievement of the purposes of the Chapter;

(g) Make available to the public, on request, policies, rules and regulations, reports and surveys in accordance with applicable State law;

(h) Issue rules and regulations for the conduct of its own affairs;

(i) Be empowered to request and, if granted, to receive funds appropriated by the Board of Supervisors through the mayor;

(j) Maintain, on at least a monthly basis, statistics on the number of notices to vacate filed with the Board pursuant to Section 37.9(c) and statistics on the causes given in such notices or in any additional written documents as provided in Section 37.9(c). Said statistics shall be published in a report on March 1st every year, and copies of the report shall be submitted to the Mayor and Board of Supervisors;

(k) Compile a list at random, on a monthly basis, of 10 percent of the notices to vacate filed pursuant to Section 37.9(c) which state on the notice or in any additional written document any causes under Section 37.9(a)(8) as the reason for eviction. Said list shall be transmitted to the District Attorney on a monthly basis for investigation pursuant to Section 37.9(c). (Amended by Ord. 7-87, App. 1/15/87)

SEC. 37.7. CERTIFICATION OF RENTAL INCREASES FOR CAPITAL IMPROVEMENTS, REHABILITATION WORK AND ENERGY CONSERVATION MEASURES. (a) **Authority.** In accordance with such guidelines as the Board shall establish, the Board and designated hearing officers shall have the authority to conduct hearings in order to certify rental increases to the extent necessary to amortize the cost of capital improvements, rehabilitations, and energy conservation measures. Costs determined to be attributable to such work shall be amortized over a period which is fair and reasonable for the type and the extent of the work and which will provide an incentive to landlords to maintain, improve and renovate their properties while at the same time protecting tenants from excessive rent increases. Costs attributable to routine repair and maintenance shall not be certified.

(b) **Requirements for Certification.** The Board and designated hearing officers may only certify the costs of capital improvements, rehabilitation, and energy conservation measures where the following criteria are met:

(1) The landlord completed capital improvements or rehabilitation on or after April 15, 1979, or the landlord completed installation of energy conservation measures on or after July 24, 1982, and has filed a proof of compliance with the Bureau of Building Inspection in accordance with the requirements of Section 1207(d) of the Housing Code;

(2) The landlord has not yet increased the rent or rents to reflect the cost of said work;

(3) The landlord has not been compensated for the work by insurance proceeds;

(4) The building is not subject to a RAP loan in a RAP area designated prior to July 1, 1977;

(5) The landlord files the certification petition no later than five years after the work has been completed.

(c) **Amortization and Cost Allocation.** The Board shall establish amortization periods and cost allocation formulas. Costs shall be allocated to each unit according to the benefit of the work attributable to such unit.

(d) **Estimator.** The Board or its Executive Director may hire an estimator where an expert appraisal is required.

(e) **Filing Fee.** The Board shall establish a filing fee based upon the cost of the capital improvement, rehabilitation, or energy conservation measures being reviewed. Such fees will pay for the costs of an estimator. These fees shall be deposited in the Residential Rent Stabilization and Arbitration Fund pursuant to Section 10.117-88 of this Code.

(f) **Application Procedures.**

(1) Filing. Landlords who seek to pass through the costs of capital improvements, rehabilitation, or energy conservation measures must file an application on a form prescribed by the Board. The application shall be accompanied by such supporting material as the Board shall prescribe. All applications must be submitted with the filing fee established by the Board.

(2) **Filing Date.** Applications must be filed prior to the mailing or delivery of legal notice of a rent increase to the tenants of units for which the landlord seeks certification and in no event more than five years after the work has been completed.

(3) **Effect of Filing Application.** Upon the filing of the application, the requested increases will be inoperative until such time as the hearing officer makes findings of fact at the conclusion of the certification hearing.

(4) **Notice to Parties.** The Board shall calendar the application for hearing before a designated hearing officer and shall give written notice of the date to the parties at least 10 days prior to the hearing.

(g) Certification Hearings.

(1) **Time of Hearing.** The hearing shall be held within 45 days of the filing of the application.

(2) **Consolidation.** To the greatest extent possible, certification hearings with respect to a given building shall be consolidated. Where a landlord and/or tenant has filed a petition for hearing based upon the grounds and under the procedure set forth in Section 37.8, the Board may, in its discretion, consolidate certification hearings with hearings on Section 37.8 petitions.

(3) **Conduct of Hearing.** The hearing shall be conducted by a hearing officer designated by the Board. Both parties may offer such documents, testimony, written declarations or other evidence as may be pertinent to the proceedings. Burden of proof is on the landlord. A record of the proceedings must be maintained for purposes of appeal.

(4) **Determination of the Hearing Officer.** In accordance with the Board's amortization schedules and cost allocation formulas, the hearing officer shall make findings as to whether or not the proposed rent increases are justified based upon the following considerations:

(A) The application and its supporting documentation.

(B) Evidence presented at the hearing establishing both the extent and the cost of the work performed.

(C) Estimator's report, where such report has been prepared.

(D) Any other such relevant factors as the Board shall specify in rules and regulations.

(5) **Findings of Fact.** The hearing officer shall make written findings of fact, copies of which shall be mailed within 30 days of the hearing.

(6) **Payment or Refund of Rents to Implement Certification Decision.** If the hearing officer finds that all or any portion of the heretofore inoperative rent increase is justified, the tenant shall be ordered to pay the landlord that amount. If the tenant has paid an amount to the landlord which the hearing officer finds unjustified, the hearing officer shall order the landlord to reimburse the tenant said amount.

(7) **Finality of Hearing Officer's Decision.** The decision of the hearing officer shall be final unless the Board vacates his or her decision on appeal.

(8) **Appeals.** Either party may file an appeal of the hearing officer's decision with the Board. Such appeals are governed by Section 37.8(f) below. (Amended by Ord. 438-83, App. 9/2/83; Ord. 278-89, App. 8/2/89; Ord. 162-93, App. 5/28/93)

SEC. 37.8. ARBITRATION OF RENTAL INCREASE ADJUSTMENTS.

(a) **Authority of Board and Hearing Officers.** In accordance with such guidelines as the Board shall establish, the Board and designated hearing officers shall have the

authority to arbitrate rental increase adjustments, and to administer the rent increase protest procedures with respect to RAP rental units as set forth in Chapter 32 of the San Francisco Administrative Code.

(b) **Request for Arbitration.**

(1) **Landlords.** Landlords who seek to impose rent increases which exceed the limitations set forth in Section 37.3(a) above must request an arbitration hearing as set forth in this Section. The burden of proof is on the landlord.

(2) **Tenants.**

(A) Notwithstanding Section 37.3, tenants of non-RAP rental units and tenants of RAP rental units in areas designated on or after July 1, 1977, may request arbitration hearings where a landlord has substantially decreased services without a corresponding reduction in rent and/or has failed to perform ordinary repair and maintenance under State or local law and/or has failed to provide the tenant with a clear explanation of the current charges for gas and electricity or bond measure costs passed through to the tenant and/or imposed a nonconforming rent increase which is null and void. The burden of proof is on the tenant.

(B) Tenants of RAP rental units in areas designated prior to July 1, 1977, may petition for a hearing where the landlord has noticed an increase which exceeds the limitations set forth in Section 32.73 of the San Francisco Administrative Code. After a vacancy has occurred in a RAP rental unit in said areas, a new tenant of said unit may petition for a hearing where the landlord has demanded and/or received a rent for that unit which exceeds the rent increase limitations set forth in Section 32.73 of the San Francisco Administrative Code. The burden of proof is on the landlord.

(c) **Procedure for Landlord Petitioners.**

(1) **Filing.** The request for arbitration must be filed on a petition form prescribed by the Board and shall be accompanied by such supporting material as the Board shall prescribe, including but not limited to, justification for the proposed rental increase.

(2) **Filing Date.** The petition must be filed prior to the mailing or delivering to the tenant or tenants legal notice of the rental increase exceeding the limitations as defined in Section 37.3.

(3) **Effect of Timely Filing of Petition.** Provided a completed petition is timely filed, that portion of the requested rental increase which exceeds the limitations set forth in Section 37.3 and has not been certified as a justifiable increase in accordance with Section 37.7 is inoperative until such time as the hearing officer makes findings of fact at the conclusion of the arbitration hearing.

(4) **Notice to Parties.** The Board shall calendar the petition for hearing before a designated hearing officer and shall give written notice of the date to the parties at least 10 days prior to the hearing.

(d) **Procedure for Tenant Petitioners.**

(1) **Filing; Limitation.** The request for arbitration must be filed on a petition form prescribed by the Board and must be accompanied by such supporting material as the Board shall prescribe, including but not limited to, a copy of the landlord's notice of rent increase. If the tenant petitioner has received certification findings regarding his rental unit in accordance with Section 37.7, such findings must accompany the petition. If the tenant petitioner has received a notification from the Chief Administrative Officer with respect to base rent and amortization of a RAP loan, such notification must accompany the petition. Tenant petitions regarding the gas and

electricity passthrough must be filed within one year of the effective date of the passthrough or within one year of the date the passthrough was required to be recalculated pursuant to rules and regulations promulgated by the Board. Tenant petitions regarding the bond passthrough described in Section 37.3(a)(6) must be filed within one year of the effective date of the passthrough.

(2) **Notice to Parties.** The Board shall calendar the petition for hearing before a designated hearing officer and shall give written notice of the date to the parties at least 10 days prior to the hearing. Responses to a petition for hearing may be submitted in writing.

(e) **Hearings.**

(1) **Time of Hearing.** The hearing shall be held within 45 days of the filing of the petition. The level of housing services provided to tenants' rental units shall not be decreased during the period between the filing of the petition and the conclusion of the hearing.

(2) **Consolidation.** To the greatest extent possible, hearings with respect to a given building shall be consolidated.

(3) **Conduct of Hearing.** The hearing shall be conducted by a hearing officer designated by the Board. Both parties may offer such documents, testimony, written declarations or other evidence as may be pertinent to the proceedings. A record of the proceedings must be maintained for purposes of appeal.

(4) **Determination of the Hearing Officer: Rental Units.** Based upon the evidence presented at the hearing and upon such relevant factors as the Board shall determine, the hearing officer shall make findings as to whether or not the landlord's proposed rental increase exceeding the limitations set forth in Section 37.3 is justified or whether or not the landlord has effected a rent increase through a reduction in services or has failed to perform ordinary repair and maintenance as required by State or local law; and provided further that, where a landlord has imposed a passthrough for property taxes pursuant to Section 37.3(6)(D), the same increase in property taxes shall not be included in the calculation of increased operating and maintenance expenses pursuant to this Subsection (4). In making such findings, the hearing officer shall take into consideration the following factors:

(A) Increases or decreases in operating and maintenance expenses, including, but not limited to, real estate taxes, sewer service charges, janitorial service, refuse removal, elevator service, security system, and debt service; provided, however, when a unit is purchased after the effective date of this ordinance, and this purchase occurs within two years of the date of the previous purchase, consideration shall not be given to that portion of increased debt service which has resulted from a selling price which exceeds the seller's purchase price by more than the percentage increase in the "Consumer Price Index for All Urban Consumers for the San Francisco-Oakland Metropolitan Area, U.S. Department of Labor" between the date of previous purchase and the date of the current sale, plus the cost of capital improvements or rehabilitation work made or performed by the seller.

(B) The past history of increases in the rent for the unit and the comparison of the rent for the unit with rents for comparable units in the same general area.

(C) Any findings which have been made pursuant to Section 37.7 with respect to the unit.

(D) Failure to perform ordinary repair, replacement and maintenance in compliance with applicable State and local law.

(E) Any other such relevant factors as the Board shall specify in rules and regulations.

(5) Determination of the Hearing Officer: RAP Rental Units.

(A) RAP Rental Units in RAP Areas Designated Prior to July 1, 1977. The hearing officer shall make findings as to whether or not the noticed or proposed rental increase exceeds the rent increase limitations set forth in Section 32.73 of the San Francisco Administrative Code. In making such findings, the hearing officer shall apply the rent increase limitations set forth in Chapter 32 of the San Francisco Administrative Code and all rules and regulations promulgated pursuant thereto. The hearing officer shall consider the evidence presented at the hearing. The burden of proof shall be on the landlord.

(B) RAP Rental Units in RAP Areas Designated On or After July 1, 1977. The hearing officer shall make findings with respect to rent increases exceeding the limitations as set forth in Section 37.3 of this Chapter. In making such findings, the hearing officer shall take into consideration the factors set forth in Subsection (4) above and shall consider evidence presented at the hearing. The burden of proof is on the landlord.

(6) Findings of Fact. The hearing officer shall make written findings of fact, copies of which shall be mailed to the parties within 30 days of the hearing.

(7) Payment or Refund of Rents to Implement Arbitration Decision. Upon finding that all or any portion of the rent increase is or is not justified, or that any nonconforming rent increase is null and void, the hearing officer may order payment or refund of all or a portion of that cumulative amount within 15 days of the mailing of the findings of fact or may order the amount added to or offset against future rents; provided, however, that any such order shall be stayed if an appeal is timely filed by the aggrieved party. The hearing officer may order refunds of rent overpayments resulting from rent increases which are null and void for no more than the three-year period preceding the month of the filing of a landlord or tenant petition, plus the period between the month of filing and the date of the hearing officer's decision. In any case, calculation of rent overpayments and re-setting of the lawful base rent shall be based on a determination of the validity of all rent increases imposed since April 1, 1982, in accordance with Sections 37.3(b)(5) and 37.3(a)(2) above.

(8) Finality of Hearing Officer's Decision. The decision of the hearing officer shall be final unless the Board vacates his decision on appeal.

(f) Appeals.

(1) Time and Manner. Any appeal to the Board from the determination of the hearing officer must be made within 15 calendar days of the mailing of the findings of fact unless such time limit is extended by the Board upon a showing of good cause. If the fifteenth day falls on a Saturday, Sunday or legal holiday, the appeal may be filed with the Board on the next business day. The appeal shall be in writing and must state why appellant believes there was either error or abuse of discretion on the part of the hearing officer. The filing of an appeal will stay only that portion of any hearing officer's decision which permits payment, refund, offsetting or adding rent.

(2) Record on Appeal. Upon receipt of an appeal, the entire administrative record of the matter, including the appeal, shall be filed with the Board.

(3) Appeals. The Board shall, in its discretion, hear appeals. In deciding whether or not to hear a given appeal, the Board shall consider, among other factors, fairness to the parties, hardship to either party, and promoting the policies and

purposes of this Chapter, in addition to any written comments submitted by the hearing officer whose decision is being challenged. The Board may also review other material from the administrative record of the matter as it deems necessary. A vote of three members shall be required in order for an appeal to be heard.

(4) **Remand to Hearing Officer without Appeal Hearing.** In those cases where the Board is able to determine on the basis of the documents before it that the hearing officer has erred, the Board may remand the case for further hearing in accordance with its instructions without conducting an appeal hearing. Both parties shall be notified as to the time of the re-hearing, which shall be conducted within 30 days of remanding by the Board. In those cases where the Board is able to determine on the basis of the documents before it that the hearing officer's findings contain numerical or clerical inaccuracies, or require clarification, the Board may continue the hearing for purposes of re-referring the case to said hearing officer in order to correct the findings.

(5) **Time of Appeal Hearing; Notice to Parties.** Appeals accepted by the Board shall be heard within 45 days of the filing of an appeal. Within 30 days of the filing of an appeal, both parties shall be notified in writing as to whether or not the appeal has been accepted. If the appeal has been accepted, the notice shall state the time of the hearing and the nature of the hearing. Such notice must be mailed at least 10 days prior to the hearing.

(6) **Appeal Hearing; Decision of the Board.** At the appeal hearing, both appellant and respondent shall have an opportunity to present oral testimony and written documents in support of their positions. After such hearing and after any further investigation which the Board may deem necessary the Board may, upon hearing the appeal, affirm, reverse or modify the hearing officer's decision or may remand the case for further hearing in accordance with its findings. The Board's decision must be rendered within 45 days of the hearing and the parties must be notified of such decision.

(7) **Notification of the Parties.** In accordance with item (6) above, parties shall receive written notice of the decision. The notice shall state that this decision is final.

(8) **Effective Date of Appeal Decisions.** Appeal decisions are effective on the date mailed to the parties; provided, however, that that portion of any decision which orders payment, refund, offsetting or adding rent shall become effective 30 calendar days after it is mailed to the parties unless a stay of execution is granted by a court of competent jurisdiction.

(9) **Limitation of Actions.** A landlord or tenant aggrieved by any decision of the Board must seek judicial review within 90 calendar days of the date of mailing of the decision. (Amended by Ord. 435-86, App. 11/10/86; Ord. 278-89, App. 8/2/89; Ord. 127-91, App. 4/2/91; Ord. 132-92, App. 5/21/92; Ord. 179-92, App. 6/22/92; Ord. 162-93, App. 5/28/93; Ord. 363-93, App. 11/18/93; Ord. 179-98, App. 5/29/98)

SEC. 37.8A. EXPEDITED HEARING PROCEDURES. As an alternative to the hearing procedures set forth in Sections 37.7(g) and 37.8(e) above, a landlord or tenant may, in certain cases, obtain an expedited hearing and final order with the written consent of all parties. This Section contains the exclusive grounds and procedures for such hearings.



(a) **Applicability.** A tenant or landlord may seek an expedited hearing for the following petitions only:

(1) Any landlord capital improvement petition where the proposed increase for certified capital improvement costs does not exceed the greater of 10 percent or \$30 of a tenant's base rent and the parties stipulate to the cost of the capital improvements;

(2) Any tenant petition alleging decreased housing services with a past value not exceeding \$1,000 as of the date the petition is filed;

(3) Any tenant petition alleging the landlord's failure to repair and maintain the premises as required by state or local law;

(4) Any tenant petition alleging unlawful rent increases where the parties stipulate to the tenant's rent history and the rent overpayments do not exceed a total of \$1,000 as of the date the petition is filed;

(5) Any petition concerning jurisdictional questions where the parties stipulate to the relevant facts.

(b) **Hearing Procedures.** The petition application procedures of Section 37.7(f) and Section 37.8(c) and (d) apply to petitions for expedited hearings. The hearings shall be conducted according to the following procedures:

(1) **Time of Hearing.** The hearing must be held within 21 days of the filing of the written consent of all the parties. The level of housing services provided to tenants' rental units shall not be decreased during the period between the filing of the petition and the conclusion of the hearing.

(2) **Consolidation.** To the greatest extent possible, and only with the consent of the parties, hearings with respect to a given building shall be consolidated.

(3) **Conduct of Hearing.** The hearing shall be conducted by a hearing officer designated by the Board. Both parties may offer such documents, testimony, written declarations or other evidence as may be pertinent to the proceedings. Stipulations of the parties as required under Section 37.8A(b)(1), (b)(4) and (b)(5) shall be required as evidence. Burden of proof requirements set forth in Sections 37.7 and 37.8 are applicable to the hearing categories in Section 37.8A(b) above. No record of the hearing shall be maintained for any purpose.

(4) **Order of the Hearing Officer.** Based upon all criteria set forth in Sections 37.7(4) and 37.8(e)(4) governing the petition, the hearing officer shall make a written order no later than 10 days after the hearing. The hearing officer shall make no findings of fact. The hearing officer shall order payment or refund of amounts owing to a party or parties, if amounts are owed, within a period of time not to exceed 45 days.

(5) **Stay of Order.** The hearing officer's order shall be stayed for 15 days from the date of issuance. During this period, either party may lodge a written objection to the order with the Board. If the Board receives such objection within this period, the order is automatically dissolved and the petitioning party may refile the petition for hearing under any other appropriate hearing procedure set forth in this chapter.

(6) **Finality of Hearing Officer's Order.** If no objection to the hearing officer's order is made pursuant to Subsection (c)(5) above, the order becomes final. The order is not subject to appeal to the Board under Section 37.8(f) nor is it subject to judicial review pursuant to Section 37.8(f)(9). (Added by Ord. 133-92, App. 5/21/92)

SEC. 37.8B. EXPEDITED HEARING AND APPEAL PROCEDURES FOR CAPITAL IMPROVEMENTS RESULTING FROM SEISMIC WORK ON UNREINFORCED MASONRY BUILDINGS PURSUANT TO BUILDING CODE CHAPTERS 14 AND 15 WHERE LANDLORDS PERFORMED THE WORK WITH A UMB BOND LOAN. This section contains the exclusive procedures for all hearings concerning certification of the above-described capital improvements. Landlords who perform such work without a UMB bond loan are subject to the capital improvement certification procedures set forth in Section 37.7 above.

(a) **Requirements for Certification.** The landlord must have completed the capital improvements in compliance with the requirements of Building Code Chapters 14 and 15. The certification requirements of Section 37.7(b)(2) and (b)(3) are also applicable.

(b) **Amortization and Cost Allocation; Interest.** Costs shall be equally allocated to each unit and amortized over a 10-year period or the life of any loan acquired for the capital improvements, whichever is longer. Interest shall be limited to the actual interest rate charged on the loan and in no event shall exceed 10 percent per year.

(c) **Eligible Items; Costs.** Only those items required in order to comply with Building Code Chapters 14 and 15 may be certified. The allowable cost of such items may not exceed the costs set forth in the Mayor's Office of Economic Planning and Development's publication of estimated cost ranges for bolts plus retrofitting by building prototype and/or categories of eligible construction activities.

(d) **Hearing Procedures.** The application procedures of Section 37.7(f) apply to petitions for these expedited capital improvement hearings; provided, however, that the landlord shall pay no filing fee since the Board will not hire an estimator. The hearings shall be conducted according to the following procedures:

(1) **Time of Hearing; Consolidation; Conduct of Hearing.** The hearing must be held within 21 days of the filing of the application. The consolidation and hearing conduct procedures of Section 37.7(g)(2) and (g)(3) apply.

(2) **Determination of Hearing Officer.** In accordance with the requirements of this section, the hearing officer shall make findings as to whether or not the proposed rent increases are justified based upon the following considerations:

(A) The application and its supporting documentation;

(B) Evidence presented at the hearing establishing both the extent and the cost of the work performed; and

(C) The Mayor's Office of Planning and Economic Development's bolts plus cost range publication; and

(D) Tenant objections that the work has not been completed; and

(E) Any other such relevant factors as the Board shall specify in rules and regulations.

(3) **Findings of Fact; Effect of Decision.** The hearing officer shall make written findings of fact, copies of which shall be mailed within 21 days of the hearing. The decision of the hearing officer is final unless the Board vacates it on appeal.

(e) **Appeals.** Either party may appeal the hearing officer's decisions in accordance with the requirements of Section 37.8(f)(1), (f)(2) and (f)(3). The Board shall decide whether or not to accept an appeal within 21 days.

(1) **Time of Appeal Hearing; Notice to Parties; Record; Conduct of Hearing.** The appeal procedures of Section 37.8(f)(5), (f)(6), (f)(7), (f)(8) and (f)(9) apply; provided, however, that the Board's decision shall be rendered within 20 days of the hearing.

(2) **Rent Increases.** A landlord may not impose any rent increase approved by the Board on appeal without at least 60 days' notice to the tenants. (Added by Ord. 221-92, App. 7/14/92)

SEC. 37.9. EVICTIONS. Notwithstanding Section 37.3, this Section shall apply as of August 24, 1980, to all landlords and tenants of rental units as defined in Section 37.2(r).

(a) A landlord shall not endeavor to recover possession of a rental unit unless:

(1) The tenant has failed to pay the rent to which the landlord is lawfully entitled under the oral or written agreement between the tenant and landlord or habitually pays the rent late or gives checks which are frequently returned because there are insufficient funds in the checking account; or

(2) The tenant has violated a lawful obligation or covenant of tenancy other than the obligation to surrender possession upon proper notice and failure to cure such violation after having received written notice thereof from the landlord; or

(3) The tenant is committing or permitting to exist a nuisance in, or is causing substantial damage to, the rental unit, or is creating a substantial interference with the comfort, safety or enjoyment of the landlord or tenants in the building, and the nature of such nuisance, damage or interference is specifically stated by the landlord in writing as required by Section 37.9(c); or

(4) The tenant is using or permitting a rental unit to be used for any illegal purpose; or

(5) The tenant, who had an oral or written agreement with the landlord which has terminated, has refused after written request or demand by the landlord to execute a written extension or renewal thereof for a further term of like duration and under such terms which are materially the same as in the previous agreement; provided, that such terms do not conflict with any of the provisions of this Chapter; or

(6) The tenant has, after written notice to cease, refused the landlord access to the rental unit as required by State or local law; or

(7) The tenant holding at the end of the term of the oral or written agreement is a subtenant not approved by the landlord; or

(8) The landlord seeks to recover possession in good faith, without ulterior reasons and with honest intent:

(i) For the landlord's use or occupancy as his or her principal residence for a period of at least 36 continuous months;

(ii) For the use or occupancy of the landlord's grandparents, grandchildren, parents, children, brother or sister, or the landlord's spouse, or the spouses of such relations, as their principal place of residency for a period of at least 36 months, in the same building in which the landlord resides as his or her principal place of residency, or in a building in which the landlord is simultaneously seeking possession of a rental unit under Section 37.9(a)(8)(i). For purposes of this Section 37.9(a)(8)(ii), the term spouse shall include domestic partners as defined in San Francisco Administrative Code Sections 62.1 through 62.8.

(iii) For purposes of this Section 37.9(a)(8) only, as to landlords who become owners of record of the rental unit on or before February 21, 1991, the term "landlord" shall be defined as an owner of record of at least 10 percent interest in the property or, for Section 37.9(a)(8)(i) only, two individuals registered as domestic partners as defined in San Francisco Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at least 10 percent. For purposes of this Section 37.9(a)(8) only, as to landlords who become owners of record of the rental unit after February 21, 1991, the term "landlord" shall be defined as an owner of record of at least 25 percent interest in the property or, for Section 37.9(a)(8)(i) only, two individuals registered as domestic partners as defined in San Francisco Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at least 25 percent.

(iv) A landlord may not recover possession under this Section 37.9(a)(8) if a comparable unit owned by the landlord is already vacant and is available, or if such a unit becomes vacant and available before the recovery of possession of the unit. If a comparable unit does become vacant and available before the recovery of possession, the landlord shall rescind the notice to vacate and dismiss any action filed to recover possession of the premises. Provided further, if a noncomparable unit becomes available before the recovery of possession, the landlord shall offer that unit to the tenant at a rent based on the rent that the tenant is paying, with upward or downward adjustments allowed based upon the condition, size, and other amenities of the replacement unit. Disputes concerning the initial rent for the replacement unit shall be determined by the Rent Board. It shall be evidence of a lack of good faith if a landlord times the service of the notice, or the filing of an action to recover possession, so as to avoid moving into a comparable unit, or to avoid offering a tenant a replacement unit.

(v) It shall be rebuttably presumed that the landlord has not acted in good faith if the landlord or relative for whom the tenant was evicted does not move into the rental unit within three months and occupy said unit as that person's principal residence for a minimum of 36 continuous months.

(vi) Once a landlord has successfully recovered possession of a rental unit pursuant to Section 37.9(a)(8)(i), then no other current or future landlords may recover possession of any other rental unit in the building under Section 37.9(a)(8)(i). It is the intention of this Section that only one specific unit per building may be used for such occupancy under Section 37.9(a)(8)(i) and that once a unit is used for such occupancy, all future occupancies under Section 37.9(a)(8)(i) must be of that same unit, provided that a landlord may file a petition with the Rent Board, or at the landlord's option, commence eviction proceedings, claiming that disability or other similar hardship prevents him or her from occupying a unit which was previously occupied by the landlord.

(vii) If any provision or clause of this amendment to Section 37.9(a)(8) or the application thereof to any person or circumstance is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other chapter provisions, and clauses of this Chapter are held to be severable; or

(9) The landlord seeks to recover possession in good faith in order to sell the unit in accordance with a condominium conversion approved under the San Francisco subdivision ordinance and does so without ulterior reasons and with honest intent; or

(10) The landlord seeks to recover possession in good faith in order to demolish or to otherwise permanently remove the rental unit from housing use and has obtained all the necessary permits on or before the date upon which notice to vacate is given, and does so without ulterior reasons and with honest intent; provided that a landlord who seeks to demolish an unreinforced masonry building pursuant to Building Code Chapters 14 and 15 must provide the tenant with the relocation assistance specified in Section 37.9A(f) below prior to the tenant's vacating the premises; or

(11) The landlord seeks in good faith to remove temporarily the unit from housing use in order to be able to carry out capital improvements or rehabilitation work and has obtained all the necessary permits on or before the date upon which notice to vacate is given, and does so without ulterior reasons and with honest intent. Any tenant who vacates the unit under such circumstances shall have the right to reoccupy the unit at the prior rent adjusted in accordance with the provisions of this Chapter. The tenant will vacate the unit only for the minimum time required to do the work. On or before the date upon which notice to vacate is given, the landlord shall advise the tenant in writing that the rehabilitation or capital improvement plans are on file with the Central Permit Bureau of the Department of Public Works and that arrangements for reviewing such plans can be made with the Central Permit Bureau. In addition to the above, no landlord shall endeavor to recover possession of any unit subject to a RAP loan as set forth in Section 37.2(m) of this Chapter except as provided in Section 32.69 of the San Francisco Administrative Code. The tenant shall not be required to vacate pursuant to this Section 37.9(a)(11), for a period in excess of three months; provided, however, that such time period may be extended by the Board or its hearing officers upon application by the landlord. The Board shall adopt rules and regulations to implement the application procedure. Any landlord who seeks to recover possession under this Section 37.9(a)(11) shall pay the tenant actual costs up to \$1,000 for moving and relocation expenses not less than 10 days prior to recovery of possession; or

(12) The landlord seeks to recover possession in good faith in order to carry out substantial rehabilitation, as defined in Section 37.2(s), and has obtained all the necessary permits on or before the date upon which notice to vacate is given, and does so without ulterior reasons and with honest intent. Notwithstanding the above, no landlord shall endeavor to recover possession of any unit subject to a RAP loan as set forth in Section 37.2(m) of this Chapter except as provided in Section 32.69 of the San Francisco Administrative Code; or

(13) The landlord, who does not have cause to evict under any other provision of this Section 37.9(a), wishes to withdraw from rent or lease all rental units within any detached physical structure and, in addition, in the case of any detached physical structure containing three or fewer rental units, any other rental units on the same lot, and complies in full with Section 37.9A with respect to each such unit; provided, however, that a unit classified as a residential unit under Chapter 41 of this Code which is vacated under this Section 37.9(a)(13) may not be put to any use other than that of a residential hotel unit without compliance with the provisions of Section 41.9 of this Code; or

(14) The landlord seeks in good faith to temporarily recover possession of the unit for less than 30 days solely for the purpose of effecting lead remediation or abatement work, as required by San Francisco Health Code Article 26. The relocation rights and remedies, established by San Francisco Administrative Code Chapter 72, including but not limited to, the payment of financial relocation assistance, shall apply to evictions under this Section 37.9(a)(14).

(b) A landlord who resides in the same rental unit with his or her tenant may evict said tenant without just cause as required under Section 37.9(a) above.

(c) A landlord shall not endeavor to recover possession of a rental unit unless at least one of the grounds enumerated in Section 37.9(a) or (b) above is the landlord's dominant motive for recovering possession and unless the landlord informs the tenant in writing on or before the date upon which notice to vacate is given of the grounds under which possession is sought and that advice regarding the notice to vacate is available from the Residential Rent Stabilization and Arbitration Board, before endeavoring to recover possession. A copy of all notices to vacate except three-day notices to vacate or pay rent and a copy of any additional written documents informing the tenant of the grounds under which possession is sought shall be filed with the Board within 10 days following service of the notice to vacate. The District Attorney shall determine whether the units set forth on the list compiled in accordance with Section 37.6(k) are still being occupied by the tenant who succeeded the tenant upon whom the notice was served. In cases where the District Attorney determines that Section 37.9(a)(8) has been violated, the District Attorney shall take whatever action he deems appropriate under this Chapter or under State law.

(d) No landlord may cause a tenant to quit involuntarily or threaten to bring any action to recover possession, or decrease any services, or increase the rent, or take any other action where the landlord's dominant motive is retaliation for the tenant's exercise of any rights under the law. Such retaliation shall be a defense to any action to recover possession. In an action to recover possession of a rental unit, proof of the exercise by the tenant of rights under the law within six months prior to the alleged act of retaliation shall create a rebuttable presumption that the landlord's act was retaliatory.

(e) It shall be unlawful for a landlord or any other person who wilfully assists the landlord to endeavor to recover possession or to evict a tenant except as provided in Section 37.9(a) and (b). Any person endeavoring to recover possession of a rental unit from a tenant or evicting a tenant in a manner not provided for in Section 37.9(a) or (b) without having a substantial basis in fact for the eviction as provided for in Section 37.9(a) shall be guilty of a misdemeanor and shall be subject, upon conviction, to the fines and penalties set forth in Section 37.10. Any waiver by a tenant of rights under this Chapter shall be void as contrary to public policy.

(f) Whenever a landlord wrongfully endeavors to recover possession or recovers possession of a rental unit in violation of Sections 37.9 and/or 37.10 as enacted herein, the tenant or Board may institute a civil proceeding for injunctive relief, money damages of not less than three times actual damages, (including damages for mental or emotional distress), and whatever other relief the court deems appropriate. In the case of an award of damages for mental or emotional distress, said award shall only be trebled if the trier of fact finds that the landlord acted in knowing violation of or in reckless disregard of Section 37.9 or 37.10A herein. The prevailing party shall be entitled to reasonable attorney's fees and costs pursuant to order of the court. The

remedy available under this Section 37.9(f) shall be in addition to any other existing remedies which may be available to the tenant or the Board.

(g) The provisions of this Section 37.9 shall apply to any rental unit as defined in Sections 37.2(r)(4)(A) and 37.2(r)(4)(B), including where a notice to vacate/quit any such rental unit has been served as of the effective date of this Ordinance No. 250-98 but where any such rental unit has not yet been vacated or an unlawful detainer judgment has not been issued as of the effective date of this Ordinance No. 250-98.

(h) With respect to rental units occupied by recipients of tenant-based rental assistance, the notice requirements of this Section 37.9 shall be required in addition to any notice required as part of the tenant-based rental assistance program, including but not limited to the notice required under 24 CFR Section 982.311(e)(2)(ii).

(i) The following additional provisions shall apply to a landlord who seeks to recover a rental unit by utilizing the grounds enumerated in Section 37.9(a)(8):

(1) A landlord may not recover possession of a unit from a tenant under Section 37.9(a)(8) if the landlord has or receives notice, any time before recovery of possession, that any tenant in the rental unit:

(A) Is 60 years of age or older and has been residing in the unit for 10 years or more; or

(B) Is disabled within the meaning of Section 37.9(i)(1)(B)(i) and has been residing in the unit for 10 years or more, or is catastrophically ill within the meaning of Section 37.9(i)(1)(B)(ii) and has been residing in the unit for five years or more:

(i) A "disabled" tenant is defined for purposes of this Section 37.9(i)(1)(B) as a person who is disabled or blind within the meaning of the federal Supplemental Security Income/California State Supplemental Program (SSI/SSP), and who is determined by SSI/SSP to qualify for that program or who satisfies such requirements through any other method of determination as approved by the Rent Board;

(ii) A "catastrophically ill" tenant is defined for purposes of this Section 37.9(i)(1)(B) as a person who is disabled as defined by Section 37.9(i)(1)(B)(i), and who is suffering from a life threatening illness as certified by his or her primary care physician.

(2) The foregoing provisions of Sections 37.9(i)(1)(A) and (B) shall not apply where there is only one rental unit owned by the landlord in the building, or where each of the rental units owned by the landlord in the same building where the landlord resides (except the unit actually occupied by the landlord) is occupied by a tenant otherwise protected from eviction by Sections 37.9(i)(1)(A) or (B) and where the landlord's qualified relative who will move into the unit pursuant to Section 37.9(a)(8) is 60 years of age or older.

(3) The provisions established by this Section 37.9(i) include, but are not limited to, any rental unit where a notice to vacate/quit has been served as of the date this amendment takes effect but where the rental unit has not yet been vacated or an unlawful detainer judgment has not been issued.

(4) Within 30 days of personal service by the landlord of a written request, or, at the landlord's option, a notice of termination of tenancy under Section 37.9(a)(8), the tenant must submit a statement, with supporting evidence, to the landlord if the tenant claims to be a member of one of the classes protected by Section 37.9(i). The written request or notice shall contain a warning that a tenant's failure to submit a statement within the 30 day period shall be deemed an admission that the tenant is

not protected by Section 37.9(i). The landlord shall file a copy of the request or notice with the Rent Board within 10 days of service on the tenant. A tenant's failure to submit a statement within the 30 day period shall be deemed an admission that the tenant is not protected by Section 37.9(i). A landlord may challenge a tenant's claim of protected status either by requesting a hearing with the Rent Board or, at the landlord's option, through commencement of eviction proceedings, including service of a notice of termination of tenancy. In the Rent Board hearing or the eviction action, the tenant shall have the burden of proof to show protected status. No civil or criminal liability under Section 37.9(e) or (f) shall be imposed upon a landlord for either requesting or challenging a tenant's claim of protected status.

(5) This Section 37.9(i) is severable from all other sections and shall be of no force or effect if any temporary moratorium on owner/relative evictions adopted by the Board of Supervisors after June 1, 1998 and before October 31, 1998 has been invalidated by the courts in a final decision. (Amended by Ord. 7-87, App. 1/15/87; Ord. 30-91, App. 1/22/91; Ord. 192-91, App. 5/31/91; Ord. 221-92, App. 7/14/92; Ord. 405-96, App. 10/21/96; Ord. 482-97, App. 12/30/97; Ord. 239-98, App. 7/17/98; Ord. 250-98, App. 7/31/98; Ord. 293-98, App. 10/2/98; amended by Proposition G, 11/3/98)

SEC. 37.9A. TENANT RIGHTS IN CERTAIN DISPLACEMENTS. (a) **Rent Allowed.** Any rental unit which a tenant vacates after receiving a notice to quit relying on Section 37.9(a)(13), if again offered for rent or lease at any time, must be offered at a rent not greater than that which would have been allowed had the prior tenant or tenants remained in continuous occupancy during the entire period of the vacancy. If it is asserted that a rent increase or increases could have taken place during the vacancy in question, the owner shall bear the burden of showing by a preponderance of the evidence that the rent could have been legally increased during the period. If it is asserted that the increase is based in whole or part on capital improvements, rehabilitation or substantial rehabilitation, the owner must petition the Rent Board pursuant to the procedures of Section 37.7 of this Chapter. No increase shall be allowed on account of any expense incurred in connection with withdrawing any unit from rent or lease.

(b) **Treatment of Replacement Units.** If one or more units covered by Subsection (a) is demolished, and one or more new units qualifying as rental units under this Chapter but for the date on which they first receive a certificate of final completion and occupancy are constructed on the same property, and offered for rent or lease within five years of the date the last of the original units became vacant, the newly constructed units shall be offered at rents not greater than those reasonably calculated to produce a fair and reasonable return on the newly constructed units, notwithstanding Section 37.2(r)(6) or any other provision of this Chapter. The provisions of this Chapter shall thereafter apply. The Board shall adopt rules for determining the rents necessary to provide a fair and reasonable return.

(c) **Rights to Re-Rent.** Any owner who again offers for rent or lease any unit covered by Subsection (a) shall first offer the unit for rent or lease to the tenants or lessees displaced from the unit on the following conditions:

(1) If any tenant or lessee has advised the owner in writing within 30 days of displacement of his or her desire to consider an offer to renew the tenancy and has furnished the owner with an address to which that offer is to be directed, the owner

must make such an offer whenever the unit is again offered for rent or lease. That tenant, lessee, or former tenant or lessee may advise the owner at any time of a change of address to which an offer is to be directed.

(2) If the offer is made within 10 years after the date on which the unit became vacant, the owner must make such an offer whenever the tenant or lessee requests the offer in writing within 30 days after the owner has notified the City of an intention to offer the unit again for residential rent or lease pursuant to Subsection (g). The owner shall be liable to any tenant or lessee who was displaced for failure to comply with this Subsection (2), for punitive damages in an amount which does not exceed the contract rent for six months.

(d)(1) **Acceptance of Re-Rental Offer.** If the owner again offers a rental unit for rent or lease, and any former tenant or lessee has advised the owner pursuant to Subsection (c) of a desire to consider, or requested, an offer to renew the tenancy, then the owner shall offer to reinstitute a rental agreement or lease at rents permitted under Subsection (a) and on terms equivalent to those available to that displaced tenant or lessee prior to displacement. This offer shall be deposited in the United States mail, by registered or certified mail with postage prepaid, addressed to the displaced tenant or lessee at the address furnished to the owner as provided in Subsection (c) and shall describe the terms of the offer. The displaced tenant or lessee shall have 30 days from the deposit of the offer in the mail to accept the offer by personal delivery of that acceptance or by deposit of the acceptance in the United States mail by registered or certified mail with postage prepaid.

(2) If more than one tenant or lessee attempts to accept the offer for a given unit, the landlord shall notify each tenant or lessee so accepting that other acceptances have been received, and shall further advise each such tenant or lessee of the names and addresses of the others. If all such tenants or lessees do not within 30 days thereafter agree and notify the landlord of which tenant(s) or lessee(s) will reoccupy the unit, the tenant(s) or lessee(s) who first occupied the unit previously shall be entitled to accept the landlord's offer. If more than one eligible tenant or lessee initially occupied the unit on the same date, then the first such tenant or lessee to have originally sent notice accepting the landlord's offer shall be entitled to occupy the unit.

(e) **Re-Rental Within One Year.** If a unit covered by Subsection (a) is offered for rent or lease within one year after it became vacant:

(1) The owner shall be liable to any tenant or lessee who was displaced from the property for actual damages which were the proximate result of that displacement, as defined and limited by the standards for compensation or payments applied to public entities with respect to rental dwellings by Sections 7262 and 7264 of the California Government Code, and for punitive damages in an amount which does not exceed the contract rent for six months. Any action by a tenant or lessee pursuant to this paragraph shall be brought within two years of displacement. However, nothing in this paragraph precludes a tenant from pursuing any alternative remedy available under the law.

(2) The City may institute a civil proceeding against the owner who has again offered the unit for rent or lease for exemplary damages for displacement of tenants or lessees. The exemplary damages shall not exceed the contract rent for six months for any unit or units from which a tenant or lessee was displaced by withdrawal of

the unit from rent or lease. Any action by the City pursuant to this paragraph shall be brought within three years of the withdrawal of the unit from rent or lease.

(f) **Payments to Low-Income, Elderly and Disabled Tenants.** Where a landlord seeks eviction based upon Section 37.9(a)(13), the relocation payments described in this Subsection shall be limited to tenants who are members of lower income households, who are elderly, or who are disabled, as defined below.

(1) Tenants who are members of lower income households, as defined by Section 50079.5 of the California Health and Safety Code, and who receive a notice to quit based upon Section 37.9(a)(13), in addition to all rights under any other provisions of law, shall be entitled to receive before vacating the premises the following sums:

(A) If the unit is a studio (one or two rooms), \$1,500; or

(B) If the unit is a one-bedroom (three rooms), \$1,750; or

(C) If the unit contains two or more separate bedrooms, \$2,500,

(2) With respect to Subparagraphs (1)(A)—(C) above, the Mayor's Office of Housing or its successor agency shall annually determine the income limits for lower income households, adjusted for household size.

(3) Notwithstanding Subsection (1), and irrespective of the size of the unit, any tenant who receives a notice to quit under Section 37.9(a)(13) and who, at the time such notice is served, is 62 years of age or older, or who is disabled within the meaning of Section 50072 of the California Health and Safety Code, shall be entitled to receive \$3,000.

(4) The payments due pursuant to this Subsection (f) for any unit which is occupied by more than one tenant shall be divided equally among all the occupying tenants, excluding those tenants who are separately entitled to payments under Subsection (f)(3) above.

(5) Any notice to quit pursuant to Section 37.9(a)(13) shall notify the tenant or tenants concerned of the right to receive payment under this Subsection and the amount of payment which the landlord believes to be due.

(g)(1) **Notice to Rent Board.** Any owner who intends to withdraw from rent or lease any rental unit shall notify the Board in writing of said intention. Said notice shall contain statements, under penalty of perjury, providing information on the number of residential units, the address or location of those units, the name or names of the tenants or lessees of the units, and the rent applicable to each residential rental unit. Said notice shall include a certification under penalty of perjury that actions have been filed as required by law to terminate all existing tenancies in the structure in question. Information respecting the name or names of the tenants, the rent applicable to any unit, or the total number of units, is confidential and shall be treated as confidential information by the City for purposes of the Information Practices Act of 1977, as contained in Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code. The City shall, to the extent required by the preceding sentence, be considered an "agency," as defined by Subdivision (d) of Section 1798.3 of the Civil Code.

(2) The owner shall cause to be recorded with the County Recorder a memorandum of the notice required by Subsection (1) summarizing its provisions, other than the confidential provisions, in substantially the following form:

**Memorandum of Notice
Regarding Withdrawal of Rental Unit From Rent or Lease**

This memorandum evidences that the undersigned, as the owner or one behalf of the owner, of the property described in Exhibit A attached, has filed a notice, whose contents are certified under penalty of perjury, stating the intent to withdraw from rent or lease all units subject to existing tenancies at said property, pursuant to San Francisco Administrative Code Section 37.9A(f).

(Signature)

(3) Where an owner satisfies the requirements of Subsections (g)(1) and (g)(2), the date on which the units are withdrawn from rent or lease for purposes of this Chapter is 60 days from the delivery in person or by first-class mail of the notice to the public entity.

(4) The owner shall notify any tenant or lessee to be displaced that the City has been notified pursuant to Subsection (f)(1), that the notice specified the name and the amount of rent paid by the tenant or lessee as an occupant of the rental unit, and of the amount of rent the owner specified in the notice, together with a notice to the tenant or lessee of his or her rights under Subsection (f)(1) of this Section.

(5) The owner shall notify the Board in writing of any intention to again offer for rent or lease any rental unit as to which notice was given under Subsection (g)(1), or which is covered by Subsection (a).

(h) **Successor Owners.** The provisions of this Section 37.9A shall apply to the owner of a rental unit at the time displacement of a tenant or tenants is initiated and to any successor in interest of the owner, subject to the provisions of Chapter 12.75 of Division 7 of Title 1 of the California Government Code.

(i)(1) **Reports Required.** Not later than the last day of the third and sixth calendar months following the month in which notice is given to the Board under Subsection (g)(1), and thereafter not later than December 31st of each calendar year for a period of five years, beginning with the year in which the six-month notice is given, the owner of any property which contains or formerly contained one or more rental units which a tenant or tenants vacated pursuant to Section 37.9(a)(13) shall notify the Board, in writing, under penalty of perjury, for each such unit:

(A) Whether the unit has been demolished;

(B) If the unit has not been demolished, whether it is in use;

(C) If it is in use, whether it is in residential use;

(D) If it is in residential use, the date the tenancy began, the name of the tenant(s), and the amount of rent charged.

If the unit has been demolished, and one or more new units constructed on the lot, the owner shall furnish the information required by items (B), (C) and (D) for each new unit. The Board shall maintain a record of the notice received under Subsection (g) and all notices received under this Section for each unit subject to this reporting requirement.

(2) The Board shall notify each person who is reported as having become a tenant in a vacated or new unit subject to the reporting requirements of Subsection

(1) that it maintains the records described in Subsection (1), and that the rent of the unit may be restricted pursuant to Subsection (a) of this Section.

(j) This Section 37.9A is enacted principally to exercise specific authority provided for by Chapter 12.75 of Division 7 of Title 1 of the California Government Code as enacted by Stats. 1985, Ch. 1509, Section 1. In the case of any amendment to Chapter 12.75 or any other provision of State law which amendment is inconsistent with this Section, this Section shall be deemed to be amended to be consistent with State law, and to the extent it cannot be so amended shall be interpreted to be effective as previously adopted to the maximum extent possible. (Added by Ord. 193-86, App. 5/30/86; amended by Ord. 320-94, App. 9/15/94)

SEC. 37.9B. TENANT RIGHTS IN EVICTIONS UNDER SECTION

37.9(a)(8). (a) Any rental unit which a tenant vacates after receiving a notice to quit based on Section 37.9(a)(8), and which is subsequently no longer occupied as a principal residence by the landlord or the landlord's grandparent, parent, child, grandchild, brother, sister, or the landlord's spouse, or the spouses of such relations must, if offered for rent during the three-year period following service of the notice to quit under Section 37.9(a)(8), be rented in good faith at a rent not greater than at which would have been the rent had the tenant who had been required to vacate remained in continuous occupancy and the rental unit remained subject to this Chapter. If it is asserted that a rent increase could have taken place during the occupancy of the rental unit by the landlord if the rental unit had been subjected to this Chapter, the landlord shall bear the burden of proving that the rent could have been legally increased during the period. If it is asserted that the increase is based in whole or in part upon any grounds other than that set forth in Section 37.3(a)(1), the landlord must petition the Rent Board pursuant to the procedures of this Chapter. Displaced tenants shall be entitled to participate in and present evidence at any hearing held on such a petition. Tenants displaced pursuant to Section 37.9(a)(8) shall make all reasonable efforts to keep the Rent Board apprised of their current address. The Rent Board shall provide notice of any proceedings before the Rent Board to the displaced tenant at the last address provided by the tenant. No increase shall be allowed on account of any expense incurred in connection with the displacement of the tenant.

(b) Any landlord who, within three years of the date of service of the notice to quit, offers for rent or lease any unit in which the possession was recovered pursuant to Section 37.9(a)(8) shall first offer the unit for rent or lease to the tenants displaced in the same manner as provided for in Sections 37.9A(c) and (d).

(c) An owner who endeavors to recover possession under Section 37.9(a)(8) shall, in addition to complying with the requirements of Section 37.9(c), inform the tenant in writing of the following and file any written documents informing the tenant of the following with the Rent Board within 10 days after service of the notice to vacate;

(1) The identity and percentage of ownership of all persons holding a full or partial percentage ownership in the property;

(2) The dates the percentages of ownership were recorded;

(3) The name(s) of the landlord endeavoring to recover possession and, if applicable, the name(s) and relationship of the relative(s) for whom possession is being sought and a description of the current residence of the landlord or relative(s);

(4) A description of all residential properties owned, in whole or in part, by the landlord and, if applicable, a description of all residential properties owned, in whole or in part, by the landlord's grandparent, parent, child, grandchild, brother, or sister for whom possession is being sought;

(5) The current rent for the unit and a statement that the tenant has the right to re-rent the unit at the same rent, as adjusted by Section 37.9B(a) above;

(6) The contents of Section 37.9B, by providing a copy of same; and

(7) The right the tenant(s) may have to relocation costs and the amount of those relocation costs.

(d) Each individual tenant of any rental unit in a building containing two or more units who receives a notice to quit based upon Section 37.9(a)(8), and who has resided in the unit for 12 or more months, in addition to all rights under any other provision of law, shall be entitled to receive relocation expenses of \$1,000 from the owner, \$500 of which shall be paid at the time of the service of the notice to vacate, and \$500 of which shall be paid when the tenant vacates. An owner who pays relocation costs as required by this subsection in conjunction with a notice to quit need not pay relocation costs with any further notices to quit for the same unit that are served within 180 days of the notice that included the required relocation payment. The relocation costs contained herein are separate from any security or other refundable deposits as defined in California Code Section 1950.5. Further, payment or acceptance of relocation costs shall not waive any other rights a tenant may have under law. (Added by Ord. 293-98, App. 10/2/98)

SEC. 37.10A. MISDEMEANORS. (a) It shall be unlawful for a landlord to increase rent or rents in violation of the decision of a hearing officer or the decision of the Board on appeal pursuant to the hearing and appeal procedures set forth in Section 37.8 of this Chapter. It shall further be unlawful for a landlord to charge any rent which exceeds the limitations of this Chapter. Any person who increases rents in violation of such decisions or who charges excessive rents shall be guilty of a misdemeanor.

(b) It shall be unlawful for an landlord to refuse to rent or lease or otherwise deny to or withhold from any person any rental unit because the age of a prospective tenant would result in the tenant acquiring rights under this Chapter. Any person who refuses to rent in violation of this subsection shall, in addition to any other penalties provide by State or federal law, be guilty of a misdemeanor.

(c) Any person convicted of a misdemeanor hereunder shall be punishable by a fine of not more than \$2,000 or by imprisonment in the County Jail for a period of not more than six months, or by both. Each violation of the decision of a hearing officer or the decision of the Board on appeal and each refusal to rent or denial of a rental unit as set forth above shall constitute a separate offense. (Added by Ord. 20-84, App. 1/19/84; amended by Ord. 20-84, App. 10/2/98)

SEC. 37.11A. CIVIL ACTIONS. Whenever a landlord charges a tenant a rent which exceeds the limitations set forth in this Chapter, retaliates against a tenant for the exercise of any rights under this Chapter, or attempts to prevent a tenant from acquiring any rights under this Chapter, the tenant may institute a civil proceeding for money damages; provided, however, that any monetary award for rent overpayments resulting from a rent increase which is null and void pursuant to Section

37.3(b)(5) shall be limited to a refund of rent overpayments made during the three-year period preceding the month of filing of the action, plus the period between the month of filing and the date of the court's order. In any case, calculation of rent overpayments and re-setting of the lawful base rent shall be based on a determination of the validity of all rent increases imposed since April 1, 1982, in accordance with Sections 37.3(b)(5) and 37.3(a)(2) above. The prevailing party in any civil action brought under this Section 37.11A shall be entitled to recover reasonable attorneys' fees and costs. The remedy available under this Section shall be in addition to any other existing remedies which may be available to the tenant. (Added by Ord. 20-84, App. 1/19/84; amended by Ord. 162-93, App. 5/28/93; Ord. 363-93, App. 11/18/93; Ord. 293-98, App. 10/2/98)

SEC. 37.12. TRANSITIONAL PROVISIONS. This Section is enacted in order to assure the smooth transition to coverage under this Chapter of owner-occupied buildings containing four units or less, as a result of the repeal of the exemption for owner-occupied units. The provisions of this Section apply only to such units. The units are referred to as "newly covered units" in this Section. The term "effective date of coverage" as used herein means the effective date of the repeal of the owner occupancy exemption.

(a) The initial base rent for all newly covered units shall be the rent that was in effect for the rental unit on May 1, 1994. If no rent was in effect for the newly covered unit on May 1, 1994, the initial base rent shall be the first rent in effect after that date.

(b) All rents paid after May 1, 1994, in excess of the initial base rent under Section 37.12(a), shall be refunded to the tenant no later than December 15, 1994. If the landlord fails to refund the excess rent by December 15, 1994, the tenant may deduct the amount of the refund from future rent payments, or bring a civil action under Section 37.11A, or exercise any other existing remedies. All tenants residing in newly covered units are entitled to this refund, even if the tenant vacated before the effective date of coverage of the newly covered units.

(c) As soon as practical after the effective date of coverage, the Board shall mail to the landlords of record of newly covered units a notice advising of the repeal of the exemption for owner-occupied buildings containing four units or less. The notice shall include information deemed appropriate by the Board to explain the requirements and effects of the change in the law. It shall be the responsibility of landlords to distribute a copy of said notice to all newly covered units within 15 days of the date the Board mails such notice to landlords. Distribution shall be by mail properly addressed to a tenant of the newly covered unit, or by personal delivery to a tenant of the newly covered unit, or by placing said notice under the door of the primary entrance to the newly covered unit. (Added by Proposition I, 11/8/94; amended by Ord. 88-95, App. 4/7/95)

SEC. 37.13. SEVERABILITY. If any provision or clause of this Chapter or the application thereof to any person or circumstance is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other Chapter provisions, and clauses of this Chapter are declared to be severable. (Amended by Ord. 20-84, App. 1/19/84; amended by Proposition I, 11/8/94)

CHAPTER 37A**RESIDENTIAL RENT STABILIZATION AND ARBITRATION FEE**

Sec. 37A.1.	Scope.
Sec. 37A.2.	Findings.
Sec. 37A.3.	Purpose.
Sec. 37A.4.	Imposition of the Fee.
Sec. 37A.5.	Residential Rent Stabilization and Arbitration Fund.
Sec. 37A.6.	Recovery of the Fee.
Sec. 37A.7.	Rules and Regulations.
Sec. 37A.8.	Nonpayment; Additional Request.
Sec. 37A.9.	Lien Proceedings; Notice.
Sec. 37A.10.	Manner of Giving Notice.
Sec. 37A.11.	Severability.
Sec. 37A.12.	Reserved.

SEC. 37A.1. SCOPE. This Chapter is applicable to all residential units in the City and County of San Francisco. For purposes of this Chapter, "residential units" are dwelling units and guest rooms as those terms are defined in Sections 203.4 and 203.7 of the San Francisco Housing Code. The term shall **not** include:

(a) Guest rooms exempted or excluded from regulation under Chapter 41 of this Code;

(b) Dwelling units in nonprofit cooperatives owned, occupied and controlled by a majority of the residents or dwelling units solely owned by a nonprofit public benefit corporation governed by a board of directors the majority of which are residents of the dwelling units and where it is required in the corporate by-laws that rent increases be approved by a majority of the residents;

(c) Housing accommodations in any hospital, convent, monastery, extended care facility, asylum, residential care or adult day health care facility for the elderly which must be operated pursuant to a license issued by the California Department of Social Services, as required by California Health and Safety Chapters 3.2 and 3.3, or in dormitories owned and operated by an institution of higher education, a high school, or an elementary school;

(d) Dwelling units whose rents are controlled or regulated by any government unit, agency or authority, excepting those units which are subject to the jurisdiction of the Residential Rent Stabilization and Arbitration Board;

(e) Any dwelling unit for which the owner has on file with the Assessor a current homeowner's exemption;

(f) Any dwelling unit which is occupied by an owner of record on either a full-time or part-time basis and which is not rented at any time, provided that the owner file with the Tax Collector an affidavit so stating;

(g) Dwelling units located in a structure for which a certificate of final completion and occupancy was first issued by the Bureau of Building Inspection after June 13, 1979;

(h) Dwelling units in a building which, after June 13, 1979, has undergone substantial rehabilitation as that term is defined in Chapter 37 of this Code. (Added

by Ord. 278-89, App. 8/2/89; amended by Ord. 291-90, App. 8/1/90; Ord. 211-95, App. 6/30/95)

SEC. 37A.2. FINDINGS. The Board of Supervisors hereby finds:

(a) In Section 37.1 of this Code, the Board of Supervisors found that there was a shortage of decent, safe and sanitary housing in the City and County of San Francisco resulting in a critically low vacancy factor. The Board further found that rent regulation was necessary in order to alleviate the ill effects of the City's housing shortage to meet the need for affordable housing, and to advance the City's housing policies. The Board now hereby finds that this housing shortage still persists and that rent regulation continues to be a necessary and effective means of mitigating this condition.

(b) By Ordinance No. 276-79, adopted June 12, 1979, the Board of Supervisors enacted the Residential Rent and Arbitration Ordinance ("Rent Ordinance," Chapter 37, San Francisco Administrative Code) to regulate residential rents in San Francisco. The Ordinance created the Residential Rent Stabilization and Arbitration Board ("Rent Board," Sections 37.1(a), (b) and 37.4) to administer and enforce the Rent Ordinance and thereby safeguard tenants from excessive increases while at the same time assure landlords fair and adequate rents. The Rent Board benefits both landlords and tenants by providing for the orderly and efficient administration of the Rent Ordinance and by protecting tenants from unreasonable rent increases and displacement while assuring that landlords receive fair rents consistent with the Ordinance.

(c) It is fair and reasonable that the costs of administering and enforcing the Rent Ordinance through the Rent Board should be equitably distributed among the City's residential units.

Therefore, the Board finds that the owner of each residential unit as defined in Section 37A.1 above shall be required to pay an annual Rent Stabilization and Arbitration fee for each unit.

(d) The fee for each residential unit shall equal the projected annual cost of funding the Rent Board plus related administrative costs pursuant to Section 10.194 of this Code including, but not limited to, the Tax Collector and Controller divided by the total number of residential units estimated to pay the fee minus any balance remaining in the fund set forth in Section 10.117-88 of this Code; provided, however, that in calculating the fee, the Controller shall round up any fraction of a dollar to the next whole dollar; provided further, however, that the fee shall in no event exceed \$10 per residential unit. For the purposes of this calculation, a guest room shall be counted as one-half of a residential unit and shall be charged half the fee. The Assessor and the Superintendent of the Bureau of Building Inspection shall release to the Information Services Division (IDS) of the Controller's Office by June 1st information necessary for compilation of the billing list. The Controller shall compile the list, determine the total number of residential units and calculate the fee by July 31st. The fee shall be recalculated on July 31st each year.

(e) The fee herein is for regulatory purposes only. It is not designed or intended for revenue purposes. Any surplus collected in a given year will reduce the fee in the next fiscal year. (Added by Ord. 278-89, App. 8/2/89; amended by Ord. 291-90, App. 8/1/90; Ord. 354-90, App. 10/17/90; Ord. 186-93, App. 6/11/93)

SEC. 37A.3. PURPOSE. The purpose of this ordinance is to require those who rely upon and/or benefit from the Rent Board's administration and enforcement of the Rent Ordinance to pay a fee which is directly related to the financial burden placed upon the City in carrying out the Rent Board's functions and duties. (Added by Ord. 278-89, App. 8/2/89)

SEC. 37A.4. IMPOSITION OF THE FEE. The owner of each residential unit in San Francisco shall pay annually to the City and County of San Francisco a Residential Rent Stabilization and Arbitration fee to be calculated by the Controller as provided in Section 37A.2(d) above. The Tax Collector shall bill the fee to the owners of all residential units as a special assessment on the property tax bill. All laws applicable to the collection and enforcement of ad valorem property taxes shall be applicable to the collection and enforcement of the Residential Rent Stabilization and Arbitration fee special assessment. (Added by Ord. 278-89, App. 8/2/89; amended by Ord. 287-95, App. 9/1/95)

SEC. 37A.5. RESIDENTIAL RENT STABILIZATION AND ARBITRATION FUND. All fees collected under this Chapter shall be deposited in the Residential Rent Stabilization and Arbitration Fund as provided in Chapter 10, Section 10.117-88 of the San Francisco Administrative Code. All funds so collected shall be used solely for the purpose of funding the Rent Board plus related administrative costs pursuant to Section 10.194 of this Code including, but not limited to, the Tax Collector and Controller. (Added by Ord. 278-89, App. 8/2/89)

SEC. 37A.6. RECOVERY OF THE FEE. The owner may seek recovery of the fee from the tenant of each residential unit who is in occupancy on November 1st using one of the following methods:

(a) The owner may deduct the fee from the next interest payment owed on the tenant's security deposit pursuant to Chapter 49 of this Code. The owner shall give written notice of the deduction and its purpose at the time the interest payment is due; or

(b) The owner may bill the tenant directly for the fee. The bill shall state the amount for that unit, that the purpose of the fee is to fund the Rent Board and related administrative costs under Chapter 37A of the San Francisco Administrative Code, and that the fee is due and payable within 30 days of the date of the bill.

The owner remains liable for payment of the fee to the Tax Collector whether or not the owner seeks recovery under one of the above methods or in fact does recover from the tenant. (Added by Ord. 278-89, App. 8/2/89; amended by Ord. 291-90, App. 8/1/90)

SEC. 37A.7. RULES AND REGULATIONS. The Tax Collector may adopt such rules, regulations and administrative procedures as he or she deems necessary to implement this Chapter. (Added by Ord. 278-89, App. 8/2/89)

SEC. 37A.8. NONPAYMENT; ADDITIONAL REQUEST. (a) If the full payment required in Sec. 37A.4 above is not received within 60 days of the date of the bill, the bill shall be considered delinquent and an additional request for payment shall be sent to the owner.

(b) Said written request shall advise the recipient that if the payment is not received within 30 days of the mailing of this notice, a 25 percent penalty will be added, plus an interest charge of 1.5 percent monthly after the account has been considered delinquent and that the Board of Supervisors, in a noticed public hearing, will add a charge for the Tax Collector of \$49 and record a lien for the entire unpaid balance, including penalty on the payment with interest accruing on the entire unpaid balance, against the owner's real property. The charge for the Tax Collector consists of \$40 for processing a delinquent fee plus \$9.00 for releasing the tax lien in accordance with Section 10.237 of this Code. (Added by Ord. 278-89, App. 8/2/89; amended by Ord. 291-90, App. 8/1/90)

SEC. 37A.9. LIEN PROCEEDINGS; NOTICE. If payment is not received within 30 days following mailing of the additional request, the Tax Collector shall initiate proceedings pursuant to the provisions of Article XX, Chapter 10, San Francisco Administrative Code by reporting the delinquency to the Board of Supervisors and requesting the Board to make the entire unpaid balance, including penalty and interest, a special assessment lien against the real property. Such charges against delinquent accounts shall be reported to the Board at least once each year. The Tax Collector shall also indicate which of such delinquent accounts should be exempted from the lien procedure because of the small amounts involved, or because another procedure is more appropriate. (Added by Ord. 278-89, App. 8/2/89)

SEC. 37A.10. MANNER OF GIVING NOTICE. Any notice required to be given herein by the Tax Collector to an owner shall be sufficiently given or served upon the owner for all purposes if personally served upon the owner or if deposited, postage prepaid, in a post office letter box addressed in the name of the owner at the official address of the owner maintained by the Tax Collector for the mailing of property tax bills. (Added by Ord. 278-89, App. 8/2/89)

SEC. 37A.11. SEVERABILITY. The provisions of this Chapter shall not apply to any person, association, corporation or to any property as to whom or which it is beyond the power of the City and County of San Francisco to impose the fee herein provided. If any sentence, clause, section or part of this ordinance, or any fee imposed upon any person or entity is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this ordinance, or person or entity, and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this ordinance, or its effect on other persons or entities. It is hereby declared to be the intention of the Board of Supervisors that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part of this ordinance not been included herein, or had such person or entity been expressly exempted from the application of this ordinance. To this end the provisions of this Chapter are severable. (Added by Ord. 278-89, App. 8/2/89)

SEC. 37A.12. RESERVED.

CHAPTER 38**TRANSIT IMPACT DEVELOPMENT FEE**

- Sec. 38.1. Definitions.
- Sec. 38.2. Findings.
- Sec. 38.3. Purposes.
- Sec. 38.4. Imposition of Transit Impact Development Fee.
- Sec. 38.5. Transit Impact Development Fee Schedule.
- Sec. 38.6. Adjustments to and Review of the Transit Impact Development Fee Schedule.
- Sec. 38.7. Use of Proceeds From Transit Impact Development Fee.
- Sec. 38.8. Setting of Fee.
- Sec. 38.8.5. Credits for Prior Use.
- Sec. 38.9. Rules and Regulations.
- Sec. 38.10. Nonpayment, Recordation of Notice of Fee and Notice of Delinquency, Additional Request; Notice of Assessment of Interest and Institution of Lien Proceedings.
- Sec. 38.11. Lien Proceedings; Notice.
- Sec. 38.12. Hearing.
- Sec. 38.13. Collection of Assessment.
- Sec. 38.14. Recordation; Charges.
- Sec. 38.15. Filing with Controller and Tax Collector; Distribution of Proceeds.
- Sec. 38.16. Release of Lien, Recording Fee.
- Sec. 38.17. Manner of Giving Notices.
- Sec. 38.18. Severability.
- Sec. 38.45. Charitable Exemptions.

SEC. 38.1. DEFINITIONS. For the purposes of this Chapter, the following definitions shall apply:

- (a) Board. The Board of Supervisors of the City and County of San Francisco.
- (b) "Certificate of Final Completion and Occupancy" shall mean a certificate of final completion and occupancy issued by any authorized entity or official of the City and County of San Francisco including the Superintendent, Bureau of Building Inspection, pursuant to the Building Code.
- (c) City. The City and County of San Francisco.
- (d) Downtown Area. That portion of the City and County bounded by Van Ness Avenue as for north as Broadway, from Van Ness Avenue and Broadway easterly on Broadway to Sansome Street, then northerly on Sansome Street to the Embarcadero; then southeasterly on the Embarcadero to Berry Street; then southwesterly on Berry Street to De Haro Street; then southerly on De Haro Street to Alameda Street; then westerly on Alameda Street to Bryant Street; then northerly on Bryant Street to Thirteenth Street; then westerly on Thirteenth Street to South Van Ness Avenue; then northerly to Van Ness Avenue. The downtown area includes all property which abuts upon any of or is within the area surrounded by the above enumerated boundary streets. This definition shall apply to all developments

which have not received a certificate of final completion and occupancy or for which the transit impact development fee has not been billed on the effective date of this amendment.

(c) **Gross Square Foot of Office Use.** A square foot of floor space within a structure, whether or not within a room, to be occupied by, or primarily serving, office use.

(f) **New Development.** Any new construction, addition, extension, conversion, or enlargement of an existing structure which includes any gross square feet of office use.

(g) **Office Use.** Any structure or portion thereof intended for occupancy by business entities which will primarily provide clerical, professional or business services of the business entity, or which will primarily provide clerical, professional or business services to other business entities or to the public, at that location. Where the words "office space" are used in this ordinance they shall mean the same as "office use."

(h) **Peak Period.** The total number of minutes in an average working day, determined in accordance with Section 38.5(a), during which the Municipal Railway deploys all its operable equipment so that the system experiences no excess vehicular capacity.

(i) **Public Transit Service.** Services of the Municipal Railway of the City and County of San Francisco.

(j) **Temporary Permit of Occupancy.** Permission which is granted by any authorized entity or official of the City and County of San Francisco, including the Superintendent, Bureau of Building Inspection, to occupy any building, structure or portion thereof for office use prior to the completion of the entire building or structure. (Amended by Ord. 205-86, App. 6/6/86)

SEC. 38.2. FINDINGS. All office uses in the downtown area are benefited by virtue of the availability of the Municipal Railway as a means of transit for employees and customers.

The demand for public transit service from downtown area office uses imposes a unique burden on the Municipal Railway, qualitatively different than the burden imposed by other uses of property in San Francisco. The need for that level of service provided by the Municipal Railway during peak-periods can be attributed in substantial part to office uses of property in the downtown area.

New developments will bring increased need for public transit service in the downtown area during peak-periods. The Municipal Railway will be burdened with the demands of transporting a large number of passengers. Future increases in demand for public transit service are therefore attributable directly to new development in the downtown area increasing the number of persons using the Municipal Railway during peak-periods.

This increased demand must be met not only by the acquisition of new rolling stock and the addition of new services, but also by the employment of additional personnel and fuel to operate the added facilities, and the maintenance, repair and replacement of the addition facilities as they wear out or become obsolete.

That level of additional cost incurred by the City in expanding and operating, maintaining, repairing and replacing its public transit facilities to accommodate the additional peak-period person-trips generated by office use in new developments

can be translated into a cost per gross square foot of office use in the new developments. The cost of expanding current services and adding new services is directly proportional to the amount of peak-period Municipal Railway travel generated by new development. Development of office uses causes more additional Municipal Railway peak-period person-trips, per square foot, than the development of any other use of property in the downtown area. It is desirable to impose the increased burden of serving such use, through a fee approximating the cost per square foot, directly upon the developer of new development generating the need.

Even though other uses such as retail use also generate Municipal Railway peak-period person-trips (and even if a particular alternate use were to generate more such trips than do office uses), the Board refrains from imposing the Transit Impact Development Fee on such uses at this time, and in that regard finds: (1) The vast majority of new commercial space in the downtown area will be devoted to office uses, and the primary cause for new peak-period Municipal Railway passengers will be the development of new office uses; and (2) a significant proportion of the new retail and service uses which will hereafter be developed in the downtown area will be constructed in connection with new office developments and, for that reason, limitation of the fee to office uses both ameliorates the economic impact of the fee on developers of office space and encourages the development of projects with mixed uses consisting of office, retail and service uses. (Amended by Ord. 224-84, App. 5/15/84)

SEC. 38.3. PURPOSES. In order to be able to provide public transit services for new development in the Downtown Area, the City and County must impose a fee. This fee shall be known as the Transit Impact Development Fee.

It is the purpose of this ordinance to require developers of new development in the Downtown Area to pay a fee which is related directly to the incremental financial burden imposed upon the Municipal Railway both for initial capital outlay for the acquisition of rolling stock and the construction of facilities; and for the long term operation, maintenance and replacement of those facilities once they are in place.

The Transit Impact Development Fee is the most practical and equitable method of financing the construction and operation of required public transit service additions and improvements for the Downtown Area. This fee is intended to recover all costs incurred by the Municipal Railway in meeting peak-period public transit service demands created by office uses in each new development subject to the fee, including the expansion of service capacity through the purchase of rolling stock, the installation of new lines, the addition to existing lines and the long term operation, maintenance, repair and replacement of those expanded facilities.

The rate-making process established by this ordinance is intended to identify and measure the total incremental burdens imposed on the City and County's Municipal Railway by virtue of the demands created by office uses in new development in the Downtown Area. Such burdens are to be allocated equitably among new developments in the Downtown Area subject to the Transit Impact Development Fee. This fee is designed to reflect the benefits conferred on new development because of the added peak-period capacity to carry the passengers generated by office uses in the new developments. Such benefits shall be measured in terms of the

costs incurred by the City and County in expanding and operating the additional capacity in the Downtown Area required to meet the estimated long-term peak-period public transit service needs of such office use in new development.

The Transit Impact Development Fee shall be collected as a condition for the issuance of a certificate of final completion and occupancy for new development in the Downtown Area.

This fee will enable the City and County to pay the capital and operating costs of all additional peak-period public transit services in the Downtown Area necessitated by office use in new development. The fee schedule shall be reviewed annually and adjusted over time to insure that it continues to reflect the projected cost of providing the additional public transit service required by new developments.

Notwithstanding the basic purposes of this ordinance, the Transit Impact Development Fee shall not exceed \$5 per square foot. (Added by Ord. 224-81, App. 5/5/81)

SEC. 38.4. IMPOSITION OF TRANSIT IMPACT DEVELOPMENT

FEE. A. Each developer of a new development in the Downtown Area shall pay to the City and County of San Francisco upon the issuance of any temporary permit of occupancy and as a condition precedent to issuance of any certificate of final completion and occupancy whichever occurs first, for such new development in the Downtown Area, a Transit Impact Development Fee. That fee shall be calculated on the basis of the number of gross square feet of office use added by the new development, multiplied by the per square foot rate in effect (a) on the effective date of this ordinance for new developments for which building permits were issued prior to the effective date hereof, and (b) on the date of the filing of the building permit application as to all other new development. The rate shall be established as a current estimate of the total cost incurred by the City and County providing the additional peak-period Municipal Railway transit capacity necessitated by the public transit service needs generated by office uses in the new development over its estimate useful life.

B. No city official or agency including the Bureau of Building Inspection may issue a certificate of final completion and occupancy for any new development in the Downtown Area subject to the fee until it has received evidence of payment of the Transit Impact Development Fee (or of the initial installment if installment payment is permitted pursuant to Section 38.4) as set in accordance with Section 38.8 of this Chapter.

C. Except as provided in Section 38.4(D) herein, the fee imposed by this ordinance shall be payable with respect to (1) all new developments in the Downtown Area for which building permits are issued on or after the effective date of this ordinance, (2) such new developments in the Downtown Area for which building permits were issued prior to the effective date of this ordinance where the developers had, in receiving approval by the City Planning Commission, committed themselves to pay a reasonable fee or participate in an assessment district or other financing mechanism designed to enable the City and County to provide and operate additional peak-period public transit service necessary to accommodate the additional number of peak-period public transit service person-trips generated by office use in the new development, and (3) all other new developments in the

Downtown Area for which building permits were issued prior to the effective date of this ordinance but which had not received a certificate of final completion and occupancy prior to the effective date of this ordinance.

D. The fee imposed by this ordinance shall not be payable with respect to new construction or the addition, alteration, conversion, enlargement, extension, or rehabilitation of an existing structure for which a valid building permit was issued prior to the effective date of this ordinance (June 5, 1981), if:

(1) No commitment was made to pay a reasonable fee or participate in an assessment district or other financing mechanism designed to enable the City and County to provide and operate additional peak-period public transit service as specified above; and

(2) One or more of the following occurred prior to June 5, 1981:

(a) In the case of new construction or the addition, alteration, conversion, enlargement, extension or rehabilitation of an existing building involving building on vacant land, whether previously occupied or not, the site or portion thereof on which the new building or addition, alteration, conversion, enlargement, extension or rehabilitation of an existing building is to be located has been fully prepared and the first structural element has been erected thereon or the foundation has been completed.

(b) In the case of addition, alteration, conversion, enlargement, extension or rehabilitation of an existing building not otherwise described in paragraph (1) above, any work has been performed to change the configuration of space in the existing structure by the movement of walls or otherwise.

(c) In the case of a conversion space within an existing structure not requiring any physical changes nor a building permit, the space is first occupied for office use.

E. As to those new developments for which building permits are issued on or after the effective date of this ordinance, the Transit Impact Development Fee is payable on the earliest of the following dates:

(1) The date when 50 percent of the net rentable area of the project has been occupied;

(2) The date of issuance of the first temporary permit of occupancy with respect to any office use in the new development;

(3) The date of issuance of a final certificate of occupancy.

F. (1) As to those developments subject to the Transit Impact Development Fee for which building permits have been issued prior to the effective date of this ordinance, the Transit Impact Development Fee shall be payable on the effective date of this ordinance unless on that date none of the following has occurred:

(a) The date when 50 percent of the net rentable area of the project has been occupied;

(b) Eight months after the date of issuance of the first temporary permit of occupancy with respect to any office use in the new development;

(c) The date of issuance of a final certificate of occupancy; and

(d) The owner or developer has elected to make installment payments.

(2) If none of the foregoing has occurred on the effective date of this ordinance, the Transit Impact Development Fee shall be due when the earliest of the following occurs:

(a) The date when 50 percent of the net rentable area of the project has been occupied;

(b) The date of issuance of the first temporary permit of occupancy with respect to any office use in the new development;

(c) The date of issuance of a final certificate of occupancy.

(3) By electing to defer payment by delivery to the City and County a written election acknowledging the obligation therefor, the owner of the new development may obligate itself to pay the fee in monthly installments of interest only, at the rate of one percent per month, for a period of five years, and thereafter in level monthly payments of principal and interest, at the rate of one percent per month on the outstanding balance amortizing over (1) the remaining useful life of the development, or (2) 30 years, whichever is the shorter, such payments to be made on or before the first day of each calendar month during the payment period.

(4) The first monthly installment of the fee (if monthly installments are to be made) shall be due on the first day of the first calendar month following the date the fee would otherwise become due and such first payment shall be prorated according to the number of days by which the due date follows the date the fee would otherwise become due. (Amended by Ord. 491-85, App. 10/31/85)

SEC. 38.5. TRANSIT IMPACT DEVELOPMENT FEE SCHEDULE.

This Transit Impact Development Fee Schedule is set at an actuarially sound level to insure that the proceeds from the Transit Impact Development Fee from each new development is sufficient, including such earnings as may be derived from investment of all proceeds and amortization thereof, to pay for all capital and operating costs incurred in providing and operating additional required peak-period public transit service capacity, over the life of such new development; without, however, exceeding \$5 per square foot.

The following principals have been and, in the future, shall be observed in calculating the amount of the Fee:

(a) The times during the day which constitute the peak-period shall be determined functionally as the period of time during which a decision to add additional scheduled vehicle runs would require Muni to purchase or lease additional vehicles because the existing available fleet is fully committed in the sense that vehicles are actually in revenue service, being held for deployment later in the peak-period, in reserve, or scheduled for repair or preventive maintenance.

(b) State, federal and private operating and capital subsidies for the cost of providing additional peak-period service shall be assumed only when and to the extent that receipt of such subsidies is reasonably probable.

(c) The calculation of future costs of providing service for additional passengers during the peak-periods should assume no increase in the level of crowding for the system as a whole or material decreases in the frequency of service.

(d) The cost of electricity shall be calculated based on the price which the City could receive for such power were it sold to PG&E assigned customers rather than the cost at which it is furnished to the Municipal Railway by the Hetch Hetchy Water and Power Department.

(e) Costs and revenue attributable to trips taken outside the peak-periods by office workers and visitors shall not be included.

(f) In calculating the revenue from additional peak-period trips, a weighted average fare (reflecting the frequency of trips paid by for cash fares as opposed to fast passes) shall be estimated. In making this calculation, the average fare for a fast pass trip shall be determined by dividing the cost of a fast pass by an estimate of the total number of trips per month (whether or not taken in the peak-period) which will be taken by a fast pass purchaser. In projecting future revenues, peak-period revenue shall be assumed to increase at the same rate as peak-period operating costs.

(g) Where feasible, actual information for the fiscal year for which the fee is being calculated should be used. Where estimates must be made, those estimates should be based on such information as the General Manager of the Public Utilities Commission or his delegate considers reasonable for the purpose. Possible changes in the operation or productivity of the Municipal Railway shall be taken into account only if such changes are the announced policy of the Municipal Railway or the Public Utilities Commission and the impact of such change on peak-period costs or revenues can be estimated with reasonable certainty.

The Transit Impact Fee Schedule shall be as follows:

FOR EACH GROSS SQUARE FOOT OF OFFICE USE
IN NEW DEVELOPMENT IN THE DOWNTOWN AREA \$5.00*.

*Formula fee rate calculated to be in excess of \$5.00; limited to \$5.00.

(Amended by Ord. 224-84, App. 5/15/84)

SEC. 38.6. ADJUSTMENTS TO AND REVIEW OF THE TRANSIT IMPACT DEVELOPMENT FEE SCHEDULE. The Transit Impact Development Fee Schedule as set forth in Section 38.5 shall be reviewed annually by the Board, or more often as it may deem necessary, to insure that, subject to the limit of \$5 per square foot, the fee accurately measures the cost of adding, operating, and maintaining the additional peak-period public transit service required by office uses in new development in the Downtown Area.

In determining the number of peak-period person-trips generated annually by office uses in new developments in the Downtown Area the Board shall obtain a report from the City Planning Commission. Such report shall estimate the number of peak-period person-trips generated annually per gross square foot of office use in new developments.

The Board shall obtain a report from the General Manager of Public Utilities regarding the then-current cost per peak-period Municipal Railway person-trip necessary to provide the expanded public transit services required by new development. The General Manager shall also report the estimated useful life in years of new development, and may recommend different useful-life categories if deemed necessary or desirable to ensure a fair and accurate fee schedule.

The General Manager shall also report the projected annual increases in the cost per peak-period Municipal Railway person-trip necessary to provide the necessary additional transit services during the estimated useful lives of new developments. Finally, the General Manager shall report the estimated annual rate

of return on the proceeds of this fee which would be invested prior to their use to provide the necessary additional transit services during the useful lives of new developments.

After receiving these reports and making them available for public distribution, the Board of Supervisors shall conduct a public hearing in which it shall consider these reports, hear testimony from any interested members of the public and receive such other evidence as it may deem necessary. At the conclusion of that hearing the Board shall determine the number of peak-period person-trips of the Municipal Railway generated annually per gross square foot of office use in new development. The Board shall also determine whether differing categories of useful lives expressed in years should be used to ensure a fair and accurate fee schedule; and, if so, what the different categories should be. The Board shall then determine the current cost per peak-period Municipal Railway person-trip for the additional peak-period service necessary to serve new developments. The Board shall also determine the appropriate annual rate of increase of the cost of providing additional peak-period Municipal Railway person-trips and the appropriate annual rate of return on the invested proceeds of this fee.

The Board shall then establish a Transit Impact Development Fee Schedule expressed in terms of a sum per gross square foot for office use in new developments using the general formula: annual peak-period Municipal Railway person-trip per gross square foot times current cost per additional peak-period Municipal Railway person-trip times the present value factor appropriate to the difference between the annual rate of cost increases; and return on invested funds over the useful lives of new developments, establishing as many separate rates as are deemed appropriate to the determinations of useful life categories.

The rates of the fee schedule shall be set at an actuarially sound level to insure that the proceeds will be sufficient to pay for all capital and operating costs incurred in providing and operating additional required peak-period capacity, including such earnings as may be derived from investment of the proceeds and amortization thereof, over the life of such new developments; provided, however, that said sum may not, for any category of useful life, exceed \$5 per square foot.

In the event that the City and County shall impose and collect any additional fees or assessments specifically to recover the costs of transit services, including transit services the cost of which are included in the fee imposed by Section 38.4, the owner of a development for which the Transit Impact Development Fee has been fully paid shall annually receive a credit, up to the total amount of such fees or assessments, of that portion of the prorated annual amount of the Transit Impact Development Fee equal to those costs of transit services included in such fees or assessments which are also included in the Transit Impact Development Fee: The prorated annual amount of the Transit Impact Development Fee is obtained by dividing the total Transit Impact Development Fee already paid by the estimated useful life of the development, in years.

The portion credited against the such fees or assessments shall be determined by comparing those costs included in the Transit Impact Development Fee and those included in such fees or assessments.

In the event that the City and County shall impose and collect any additional fees or assessments specifically to recover the costs of transit services, including transit services the cost of which are included in the fee imposed by Section 38.4,

the owner of a development for which the Transit Impact Development Fee is being paid in installments shall annually receive a credit, up to the total amount of such fees or assessments, for that portion of such annual installment, whether interest only or principal and interest, equal to those costs of transit services included in such fees or assessments which are also included in the Transit Impact Development Fee.

In the event the City and County shall impose and collect any additional fees or assessments specifically to recover the costs of transit services, including transit services the cost of which are included in the fee imposed by Section 38.4, the owner of a development for which the Transit Impact Development Fee will be due but has not been paid shall receive a credit against the development fee otherwise due in an amount equal to that portion of the Transit Impact Development Fee equal to the value of those costs of transit services included in such fees or assessments which are also included in the Transit Impact Development Fee. (Added by Ord. 224-81, App. 5/5/81)

SEC. 38.7. USE OF PROCEEDS FROM TRANSIT IMPACT DEVELOPMENT FEE. The sums derived from the collection of the Transit Impact Development Fee shall be held in trust by the Treasurer of the City and County and shall be distributed according to the fiscal and budgetary provisions of the San Francisco Charter subject only to the following conditions and limitations. The proceeds from the Transit Impact Development Fee, including earnings from investments thereof, may be used only for the provisions of peak-period public transit service over and above public transit service being provided on March 1, 1980, to and from and within the Downtown Area, to compensate for and to defray the capital and operating costs incurred by the City and County in providing the benefit of public transit service in the Downtown Area in order to meet the special peak-period burden placed on the City and County by the addition of new office use in new developments in the Downtown Area of the City and County.

In the event a structure for which this Transit Impact Development Fee has been fully paid is demolished or converted to non-office use prior to the expiration of its estimated useful life, the City and County shall refund to the owner a portion of the amount of the fee determined by deducting an amount reflecting the duration of the office use in relation to the useful life estimate used in determining the Transit Impact Development Fee for that structure. In the event a structure for which the Transit Impact Development Fee is being paid in installments is demolished or converted to non-office use prior to the final payment, installments shall continue only until the principal obligation is reduced to the amount which would have been refunded if the Transit Impact Development Fee had been fully paid. In the event a building permit expires prior to completion of the work and commencement of occupancy, so that it will be necessary to obtain a new permit to carry out new development, the obligation to pay the fee shall be cancelled, and any amount previously paid shall be refunded. (Added by Ord. 224-81, App. 5/5/81)

SEC. 38.8. SETTING OF FEE. Each developer, prior to obtaining a building permit for any new development in the downtown area after the effective date of this ordinance, shall file with the General Manager of the Public Utilities Commission, on such form as he may develop, a report indicating the number of gross

square feet of the new development intended for office use. Each developer of a new development for which a building permit was issued prior to the effective date of this ordinance and for which a final certificate of occupancy had not been issued prior to the effective date of this ordinance shall file the same report prior to obtaining a final certificate of occupancy. The General Manager shall determine the number of gross square feet of office use to which the Transit Impact Development Fee Schedule applies, disregarding the number of gross square feet of office use being retained, determine the useful life category if the Fee Schedule includes useful life categories, apply the fee schedule, and determine the fee which reflects the additional cost of peak-period public transit service generated by the office use in the new development. The applicant shall be notified of the General Manager's determination in writing. The General Manager shall mail a copy of his determination to the applicant. The applicant may appeal the determination of the number of gross square feet of office use subject to the fee, the adjustment factor described in Section 38.8.5(b), or the useful-life category if the fee schedule includes useful life categories, to the Public Utilities Commission in order to reduce the amount of the fee obligation. If the applicant notifies the General Manager of his acceptance of the determination, or does not appeal to the Public Utilities Commission within 15 days of the date of personal service or mailing of notice of the General Manager's determination, the General Manager's determination shall be final, and a notice of such determination shall be provided the Central Permit Bureau. The Central Permit Bureau may not issue a building permit for any new development in the downtown area until it has received notice from the General Manager of the Public Utilities Commission or the Public Utilities Commission of the final determination of the amount of the Transit Impact Development Fee to be paid. (Amended by Ord. 224-84, App. 5/15/84)

SEC. 38.8.5. CREDITS FOR PRIOR USE. In determining the number of gross square feet of office use to which the Transit Impact Development Fee Schedule applies, the General Manager shall provide for the following credits:

a. For prior office uses, there shall be credit for the number of gross square feet of office use being eliminated as part of the project.

b. For prior uses other than office use, there shall be a credit for the number of gross square feet of nonoffice use being eliminated multiplied by an adjustment factor to reflect the difference between office building peak-period Municipal Railway trip generation rates and peak-period Municipal Railway trip generation rates for other uses. The adjustment factor shall be determined by the General Manager as follows:

(1) The adjustment factor shall be a fraction, the numerator of which shall be the peak-period Municipal Railway trip generation rate which the General Manager shall determine, in consultation with the Department of City Planning applies to the class of prior use being eliminated by the project.

(2) The denominator of the fraction shall be the peak-period Municipal Railway trip generation rate for office use used in the most recent calculation of the Transit Impact Development Fee Schedule approved by the Board of Supervisors.

(3) Notwithstanding the foregoing, the adjustment factor shall not exceed 1. (Added by Ord. 224-84, App. 5/15/84)

SEC. 38.9. RULES AND REGULATIONS. The Public Utilities Commission is empowered to adopt such rules, regulations, and administrative procedures as it deems necessary to implement this Chapter, including the determination, collection, refund, and utilization of the proceeds, of the Transit Impact Development Fee. (Added by Ord. 224-81, App. 5/5/81)

SEC. 38.10. NONPAYMENT, RECORDATION OF NOTICE OF FEE AND NOTICE OF DELINQUENCY, ADDITIONAL REQUEST; NOTICE OF ASSESSMENT OF INTEREST AND INSTITUTION OF LIEN PROCEEDINGS. A. Upon the General Manager's determination that a development is within the transit impact development fee boundaries as defined by Section 38.1(d) of this ordinance, he may cause the County Recorder to record a notice that such development is subject to the Transit Impact Development Fee. He shall serve or mail a copy of such notice to the persons liable for payment of the fee and the owners of the real property described in the notice. The notice shall include (1) a description of the real property subject to the fee; (2) a statement that the development is within the transit impact development fee downtown area boundaries as defined by Section 38.1(d) of this ordinance and is subject to the imposition of the fee; and (3) a statement that the amount of the fee to which the building is subject is determined pursuant to San Francisco Administrative Code Section 38.8 and related provisions of said ordinance.

B. Payment of the transit impact development fee imposed by this ordinance is delinquent if (1) in the case of a fee not payable in installments the fee is not paid within 30 days of request for payment; (2) in the case of a fee payable in installments the fee installment is not paid within 30 days of the date fixed for payment.

C. Where the transit impact development fee, not payable in installments pursuant to Section 38.4 hereof is not paid within 30 days of request for payment and where the transit impact development fee is payable in installments pursuant to Section 38.4 of this ordinance and any installment is not paid within 30 days of the date fixed for payment.

(1) The General Manager or his designee may cause the County Recorder to record a notice of delinquent transit impact development fee which shall include: (a) The amount of the delinquent fee; (b) the amount of the entire fee as reflected on the final determination and a statement of whether the fee is payable in installment; (c) the fee interest and penalty the due; (d) the interest and penalties that shall accrue on the delinquent fee if not promptly paid; (e) a description of the real property subject to the fee; (f) notification that if the fee is not promptly paid proceedings will be instituted before the Board of Supervisors to impose a lien for the unpaid fee together with any penalties and interest against the real property described in the delinquency notice; (g) notification of the fee payer's right to appeal the delinquency determination to the Public Utilities Commission within 15 days of the notice to the fee payer.

(2) Where the General Manager determines to record a notice of delinquency he shall also serve or mail the notice of delinquent transit impact development fee to the persons liable for the fee and to the owners of the real property described on the notice.

(3) Where a notice of transit impact development fee delinquency has been recorded and the delinquent fee is paid or the General Manager's determination of delinquency is reversed by appeal to the Public Utilities Commission or the delinquency is otherwise cured, the General Manager shall promptly cause the County Recorder to record a notice that the transit impact development fee delinquency has been cured. Said notice shall include: (a) Description of the real property affected; (b) the book and page number of the county record wherein the notice of delinquency was recorded; (c) the date the notice of delinquency was recorded; (d) notification that the delinquency reflected on the notice of delinquency was cured and the date of cure; (e) the amount of the entire fee as reflected on the final determination; (f) if applicable, the amount of the fee paid to effect the cure; and (g) if applicable, a statement that the fee was payable in installments and specification of the delinquency installments cured; (h) if applicable, the amount of the fee paid to effect the cure.

(4) The General Manager shall serve or mail the notice that the transit impact development fee delinquency has been cured, referred to in Section 38.10B(3) of this ordinance, to the persons liable for the fee and to the owners of the real property described in such notice.

D. Where the transit impact development fee, not payable in installments pursuant to Section 38.4 hereof is not paid within 30 days of request for payment and where the transit impact development fee is payable in installments pursuant to Section 38.4 of this ordinance and the installment is not paid within 30 days of the date fixed for payment, the General Manager or his designee shall mail an additional request for payment and notice to the owner stating the following:

(1) If the amount due is not paid within 30 days of the date of mailing the additional request and notice, interest at the legal rate shall be assessed upon the fee or installment due.

(2) With respect to both noninstallment and installment fees, if the account is not current within 60 days of the date of mailing the additional request and notice, the General Manager shall institute proceedings to record a special assessment lien for the entire balance and any accrued interest against the property upon which the fee is owed.

E. Thirty days after mailing the additional request for payment the General Manager may assess interest as specified in paragraph 38.10(A)(C) (1) above. Sixty days after mailing the additional request for payment and notice the General Manager may institute lien proceedings as specified in Paragraph 38.10A.C.(2) above. (Amended by Ord. 18-87, App. 1/29/87)

SEC. 38.11. LIEN PROCEEDINGS; NOTICE. If payment of the fee not payable in installments is not received within 30 days following mailing of the additional request and notice or if with respect to installment payments the account is not brought current within 60 days of the mailing of the additional request and notice, the General Manager of the Public Utilities Commission shall initiate proceedings, by reporting the delinquency to the Board, to make the entire unpaid balance of the Transit Impact Development Fee, including interest on the unpaid fee or installments a special assessment lien against the property served. Such charges against delinquent accounts shall be reported to the Board at least once each year. Said report for each such delinquent account shall contain the owner's name,

the amount due, including interest, amount of the unpaid balance, including interest on any delinquent installment, and the description of the parcel served. The General Manager of the Public Utilities Commission shall also recommend which of such delinquent accounts should be exempted from the lien procedure or other sanctions because of the small amounts involved, or because another debt collection procedure is more appropriate or for other appropriate reasons. The descriptions of the parcels shall be those used for the same parcels on the Assessor's map books for the current year. Upon receipt of such report the Board shall fix a time, date and place for hearing the report and any protest or objections thereto, and shall cause notice of the hearing to be mailed to each owner of the parcels of real property described in the report not less than 10 days prior to the date of hearing. (Amended by Ord. 491-85, App. 10/31/85)

SEC. 38.12. HEARING. At the time fixed for consideration of the report the Board shall hear it with any objections of the owners of the parcels liable to be assessed for delinquent accounts. The Board may make such revisions, corrections or modifications of the report as it may deem just; and in the event that the Board is satisfied with the correctness of the report (as submitted or as revised, corrected or modified), it shall be confirmed. The decision of the Board on the report and on all protests or objections thereto shall be final and conclusive; provided, however, any delinquent account may be removed from the report by payment in full at any time prior to confirmation of the report. The Clerk of the Board shall cause the confirmed report to be verified in form sufficient to meet recording requirements. (Added by Ord. 224-81, App. 5/5/81)

SEC. 38.13. COLLECTION OF ASSESSMENT. Upon confirmation of the report by the Board, the delinquent charges contained therein shall constitute a special assessment against the parcels to which the services were rendered.

Each such assessment shall be subordinate to all existing special assessment liens previously imposed upon such parcels and paramount to all other liens except those for state, county and municipal taxes with which it shall be upon parity. The lien shall continue until the assessment and all interest and penalties due and payable thereon are paid. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to said special assessment. (Added by Ord. 224-81, App. 5/5/81)

SEC. 38.14. RECORDATION; CHARGES. The Clerk of the Board shall cause the confirmed and verified report to be recorded in the County Recorder's office and the special assessment lien on each parcel of property described in said report shall carry additional charges for administrative expenses of \$50 or 10 percent of the amount of the unpaid balance, including penalty, whichever is higher; and a rate of one and one-half percent per full month compounded monthly from the date of the recordation of the lien on all charges due. (Added by Ord. 224-81, App. 5/5/81)

SEC. 38.15. FILING WITH CONTROLLER AND TAX COLLECTOR; DISTRIBUTION OF PROCEEDS. The Clerk of the Board shall file a certified copy of each confirmed report with the Controller and Tax Collector within 10 days

after confirmation of the report, whereupon it shall be the duty of said officers to add the amount of said assessment to the next regular bill for taxes levied against said parcel or parcels of land for municipal purposes, and thereafter said amount shall be collected at the same time and in the same manner as City and County taxes are collected, and shall be subject to the same procedure under foreclosure and sale in case of delinquency as provided for property taxes of the City and County of San Francisco.

Except for the release of lien recording fee authorized in Section 38.16, all sums collected by the Tax Collector pursuant to this ordinance shall be held in trust by the Treasurer and distributed as provided in Section 38.6 of this Chapter. (Added by Ord. 224-81, App. 5/5/81)

SEC. 38.16. RELEASE OF LIEN, RECORDING FEE. On payment to the Tax Collector of the special assessment, the Tax Collector shall cause to be recorded a release of lien with the County Recorder, and from the sum collected pursuant to Section 38.15, shall pay to the County Recorder a recording fee of \$6. (Added by Ord. 224-81, App. 5/5/81)

SEC. 38.17. MANNER OF GIVING NOTICES. Any notice required to be given hereunder by the Board of the Public Utilities Commission to an owner shall be sufficiently given or served upon the owner for all purposes hereunder if personally served upon the owner or if deposited, postage prepaid, in a post office letter box addressed in the name of the owner at the official address of the owner maintained by the Tax Collector of the City and County for the mailing of tax bills; or, if no such address is available, to the owner at the address of the real property to which the public transit service was provided. (Added by Ord. 224-81, App. 5/5/81)

SEC. 38.18. SEVERABILITY. The provisions of this ordinance shall not apply to any person, association, corporation or to any property as to whom or which it is beyond the power of the City and County of San Francisco to impose the fee herein provided. If any sentence, clause, section or part of this ordinance, or any fee imposed upon any person or entity is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this ordinance, or person or entity; and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this ordinance, or its effect on other persons or entities. It is hereby declared to be the intention of the Board of Supervisors of the City and County that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part of this ordinance not been included herein; or had such person or entity been expressly exempted from the application of this ordinance. To this end the provisions of this ordinance are severable. (Added by Ord. 224-81, App. 5/5/81)

SEC. 38.45. CHARITABLE EXEMPTIONS. (a) When the property or a portion thereof will be exempt from real property taxation pursuant to California Constitution, Article XIII, Section 4, as implemented by California Revenue and Taxation Code, Section 214, then the developer shall not be required to pay the

Transit Impact Development Fee attributed to the net new office space in the exempt property or portion thereof, so long as the property or portion thereof continues to enjoy the aforementioned exemption from real property taxation.

(b) The Transit Impact Development Fee shall be calculated for exempt structures in the same manner and at the same time as for all other structures. The developer may apply to the Public Utilities Commission for an exemption pursuant to the standards set forth herein. In the event the Commission determines that the developer is entitled to an exemption under this Section, it shall cause to be recorded a notice advising that the Transit Impact Development Fee has been calculated and imposed upon the structure and that the structure or a portion thereof has been exempted from payment of the fee but that if the property or portion thereof loses its exempt status during the 10-year period commencing with the date of the imposition of the Transit Impact Development Fee, then the building owner shall be subject to the requirement to pay the fee.

(c) If within 10 years from the date of the issuance of the Certificate of Final Completion and occupancy, the exempt property or portion thereof loses its exempt status, then the property owner shall, within 90 days thereafter, be obligated to pay the Transit Impact Development Fee, reduced by an amount reflecting the duration of the charitable exempt status in relation to the useful life estimate used in determining the Transit Impact Development Fee for that structure. The amount remaining to be paid shall be determined by recalculating the fee using a useful life equal to the useful life used in the initial calculation minus the number of years during which the exempt status has been in effect.

(d) In the event a property owner fails to pay a fee within the 90-day period, a notice for request of payment shall be served by the Public Utilities Commission pursuant to Section 38.10 of this Chapter. Thereafter, upon nonpayment, a lien proceeding shall be instituted pursuant to Sections 38.11 to 38.17, inclusive, of this Chapter. (Added by Ord. 223-84, App. 5/10/84)



CHAPTER 39**SAN FRANCISCO INTEGRATED PEST MANAGEMENT PROGRAM**

Sec. 39.1.	Purpose and Findings.
Sec. 39.2.	Definitions.
Sec. 39.3.	Ban on Use of Toxicity Category I and Certain Other Pesticides.
Sec. 39.4.	Ban on Use of Toxicity Category II Pesticide Products; Total Pesticide Ban.
Sec. 39.5.	Notice of Pesticide Use.
Sec. 39.6.	Implementation of City Integrated Pest Management Policy.
Sec. 39.7.	Recordkeeping of Pesticide Applications.
Sec. 39.8.	Exemptions.
Sec. 39.9.	City Contracts.
Sec. 39.10.	Guidelines.

SEC. 39.1. PURPOSE AND FINDINGS. (a) The Board of Supervisors hereby finds and declares that it shall be the policy of the City and County of San Francisco for City departments and City contractors who apply pesticides to City property to eliminate or reduce pesticide applications on City property to the maximum extent feasible.

(b) Under this Chapter, the City and County of San Francisco wishes to exercise its power to make economic decisions involving its own funds as a participant in the marketplace and to conduct its own business as a municipal corporation to ensure that purchases and expenditures of public monies are made in a manner consistent with integrated pest management policies and practices.

(c) This Chapter 39 concerns the application of pesticides to property owned by the City and County of San Francisco only, and does not concern the application of pesticides to property that is not owned by the City and County of San Francisco.

(d) City departments shall implement the following City Integrated Pest Management (IPM) Policy:

CITY INTEGRATED PEST MANAGEMENT POLICY

The City, in carrying out its operations, shall assume pesticides are potentially hazardous to human and environmental health. City departments shall give preference to reasonably available nonpesticide alternatives when considering the use of pesticides on City property. For all pest problems on City property, City departments shall follow the integrated pest management (IPM) approach outlined below.

(1) Monitor each pest ecosystem to determine pest population, size, occurrence, and natural enemy population, if present. Identify decisions and practices that could affect pest populations. Keep records of such monitoring;

(2) Set for each pest at each site and identify in an IPM implementation plan, an injury level, based on how much biological, aesthetic or economic damage the site can tolerate;

(3) Consider a range of potential treatments for the pest problem. Employ non-pesticide management tactics first. Consider the use of chemicals only as a last resort

and select and use chemicals only within an IPM program and in accordance with the provisions of Chapter 39.

(A) Determine the most effective treatment time, based on pest biology and other variables, such as weather, seasonal changes in wildlife use and local conditions,

(B) Design and construct indoor and outdoor areas to reduce and eliminate pest habitats,

(C) Modify management practices, including watering, mulching, waste management, and food storage,

(D) Modify pest ecosystems to reduce food and living space,

(E) Use physical controls such as hand-weeding, traps and barriers,

(F) Use biological controls (introducing or enhancing pests' natural enemies);

(4) Conduct ongoing educational programs:

(A) Acquaint staff with pest biologies, the IPM approach, new pest management strategies as they become known, and toxicology of pesticides proposed for use,

(B) Inform the public of the City's attempt to reduce pesticide use and respond to questions from the public about the City's pest management practices;

(5) Monitor treatment to evaluate effectiveness. Keep monitoring records and include them in the IPM implementation plan.

(e) Nothing in this Chapter is intended to apply to pesticide applications that are required to comply with federal, State or local laws or regulations. (Added by Ord. 401-96, App. 10/21/96; amended Ord. 274-97, App. 7/3/97)

SEC. 39.2. DEFINITIONS. Whenever used in this ordinance, the following terms shall have the meanings set forth below.

(a) "Agricultural Commissioner" means the County Agricultural Commissioner for the City and County of San Francisco.

(b) "Antimicrobial agent" means a product that is labeled as registered with the United States Environmental Protection Agency as a pesticide used to kill microbes. Antimicrobial agents include, but are not limited to, disinfectants, sanitizers, bacteriostats, sterilizers, fungicides and fungistats applied to inanimate surfaces, and commodity preservatives and protectants applied to raw materials or manufactured products.

(c) "City department" means any department of the City and County of San Francisco and includes any pesticide applicator hired by a City department to apply pesticides on City property. City department does not include any other local agency or any federal or State agency, including but not limited to the San Francisco School District, the San Francisco Community College District, the San Francisco Redevelopment Agency and the San Francisco Housing Authority.

(d) "Commission on the Environment" means the Commission on the Environment provided for by San Francisco Charter Section 4.118.

(e) "Contract" means a binding written agreement, including but not limited to a contract, lease, permit, license or easement between a person, firm, corporation or other entity, including a governmental entity, and a City department, which grants a right to use or occupy property of the City and County of San Francisco for a specified purpose or purposes.

(f) "Contractor" means a person, firm, corporation or other entity, including a governmental entity, that enters into a contract with a City department.

(g) "Department of the Environment" means the Department of the Environment provided for by San Francisco Charter Section 4.118.

(h) "Integrated pest management" means a decision-making process for managing pests that uses monitoring to determine pest injury levels and combines biological, cultural, physical, and chemical tools to minimize health, environmental and financial risks. The method uses extensive knowledge about pests, such as infestation thresholds, life histories, environmental requirements and natural enemies to complement and facilitate biological and other natural control of pests. The method uses the least toxic synthetic pesticides only as a last resort to controlling pests.

(i) "Pesticide" means pesticide as defined in Section 12753 of Chapter 2 of Division 7 of the California Food and Agricultural Code.

(j) "Toxicity Category I Pesticide Product" means any pesticide product that meets United States Environmental Protection Agency criteria for Toxicity Category I under Section 156.10 of Part 156 of Title 40 of the Code of Federal Regulations.

(k) "Toxicity Category II Pesticide Product" means any pesticide product that meets United States Environmental Protection Agency criteria for Toxicity Category II under Section 156.10 of Part 156 of Title 40 of the Code of Federal Regulations. (Added by Ord. 401-96, App. 10/21/96; amended Ord. 274-97, App. 7/3/97; Ord. 361-98, App. 12/11/98)

SEC. 39.3. BAN ON USE OF TOXICITY CATEGORY I AND CERTAIN OTHER PESTICIDES. Except for pesticides granted an exemption pursuant to Section 39.8, effective January 1, 1997, no City department shall use any Toxicity Category I Pesticide Product, any pesticide containing a chemical identified by the State of California as a chemical known to the State to cause cancer or reproductive toxicity pursuant to the California Safe Drinking Water and Toxic Enforcement Act of 1986, and any pesticide classified as a human carcinogen, probable human carcinogen or possible human carcinogen by the United States Environmental Protection Agency, Office of Prevention, Pesticides and Toxic Substances. (Added by Ord. 401-96, App. 10/21/96; amended Ord. 274-97, App. 7/3/97)

SEC. 39.4. BAN ON USE OF TOXICITY CATEGORY II PESTICIDE PRODUCTS; TOTAL PESTICIDE BAN. (a) Except for pesticides granted an exemption pursuant to Section 39.8, effective January 1, 1998, no City department shall use any Toxicity Category II Pesticide Product.

(b) Except for pesticides granted an exemption pursuant to Section 39.8, by January 1, 2000, any City department that uses one or more pesticides not banned under Section 39.3 or Section 39.4(a), shall reduce by 100 percent the cumulative volume of such pesticides that it used in calendar year 1996. (Added by Ord. 401-96, App. 10/21/96; amended Ord. 274-97, App. 7/3/97)

SEC. 39.5. NOTICE OF PESTICIDE USE. (a) Except as provided in Subdivisions (b) through (e) hereof, within 120 days of the effective date of this ordinance, any City department that uses any pesticide shall comply with the following notification procedures:

(1) Signs shall be posted at least four days before application of the pesticide product and remain posted at least four days after application of the pesticide.

(2) Signs shall be posted (i) at every entry point where the pesticide is applied if the pesticide is applied in an enclosed area, and (ii) in highly visible locations around the perimeter of the area where the pesticide is applied if the pesticide is applied in an open area.

(3) Signs shall be of a standardized design that are easily recognizable to the public and workers.

(4) Signs shall contain the name and active ingredient of the pesticide product, the target pest, the date of pesticide use, the signal word indicating the toxicity category of the pesticide product, the date for re-entry to the area treated, and the name and contact number for the City department responsible for the application.

(b) City departments shall not be required to post signs in accordance with Subsection (a) in right-of-way locations that the general public does not use for recreational purposes. However, each City department that uses pesticides in such right-of-way locations shall develop and maintain a public access telephone number about pesticide applications in the right-of-way areas. Information readily available by calling the public access number shall include for any pesticide that will be applied within the next four days or has been applied within the last four days: A description of the area of the pesticide application, the name and active ingredient of the pesticide product, the target pest, the date of pesticide use, the signal word indicating the toxicity category of the pesticide product, the re-entry period of the area treated and the name and contact number for the City department responsible for the application. Information about the public access telephone number shall be posted in a public location at the City department's main office building.

(c) City departments using baits shall not be required to post signs in accordance with Subsection (a). However, each City department that uses pesticidal baits shall post a permanent sign: (1) in each building or vehicle where the baits are used, (2) at the City department's main office or a similar location where the public obtains information regarding the building or vehicle, and (3) when baits are used outdoors to control rats and other pests, in a conspicuous location outside of the area where the baits are used. The sign shall indicate the name and active ingredient of the baits used in and around the building or vehicle, the target pests, the signal word indicating the toxicity category of the pesticide product, the area or areas where the baits are commonly placed, and the contact number for the City department responsible for the bait application.

(d) City departments may obtain authorization from the Agricultural Commissioner to apply a pesticide without providing a four-day advance notification in the event of a public health emergency or to comply with worker safety requirements. Signs meeting the requirements of Subsection (a)(2) through Subsection (a)(4) shall be posted at the time of application and remain posted four days following the application. A City department applying pesticides for which an exemption is granted pursuant to this Subsection (d), shall report any pesticide usage to the Commission on the Environment within 30 days of application.

(e) The Commission on the Environment may grant exemptions to the notification requirements for certain other specific one-time pesticide uses and may authorize permanent changes in the way City departments notify the public about pesticide use in some specific circumstances, upon a finding that good cause exists to allow an exemption to the notification requirements. Prior to granting an exemption pursuant to this subsection, the City department requesting the exemption shall identify the

specific situations in which it is not possible to comply with the notification requirements and propose alternative notification procedures. The Commission on the Environment shall review and approve the alternative notification procedures. A City department applying pesticides for which an exemption is granted pursuant to this Subsection (e), shall report any pesticide usage to the Commission on the Environment within 30 days of application. (Added by Ord. 401-96, App. 10/21/96; amended Ord. 274-97, App. 7/3/97)

SEC. 39.6. IMPLEMENTATION OF CITY INTEGRATED PEST MANAGEMENT POLICY. (a) Within 90 days of the effective date of Section 39.1(d) each City department that uses pesticides shall submit to the Department of the Environment a plan for implementing the City Integrated Pest Management (IPM) Policy. The Commission on the Environment may require periodic IPM plan updates. The IPM implementation plans and any periodic updates shall be consistent with the requirements of this Section and any guidelines developed by the Department of the Environment pursuant to this Chapter.

(b) A City department IPM implementation plan shall outline the ways in which the City department shall comply with the City IPM Policy in Section 39.1(d). The City department IPM implementation plan shall include pesticide applications performed by pesticide applicators at the request of the City department. The IPM implementation plan shall contain a list of the types and quantities of chemicals used as of December 31, 1996, the types of pest problems, the alternatives adopted to date, alternatives proposed for adoption within the next six months, and the primary IPM contact for the City department.

(c) At the request of the Department of the Environment, the Commission may determine that a City department's IPM implementation plan is not in conformity with the City IPM Policy. Upon a determination of nonconformity, the City department shall submit a revised plan to the Department of the Environment in accordance with a schedule established by the Commission.

(d) The Agricultural Commissioner and the Department of the Environment shall assist City departments in implementing the City IPM Policy by developing public educational information about IPM plans and programs and the City's IPM Policy.

(e) The Agricultural Commissioner shall establish an IPM Policy implementation program to assist City departments in implementing the City IPM Policy. The Agricultural Commissioner shall establish a data bank of information concerning pesticide use by City departments and the efficacy of alternatives used by City departments. All City departments that use pesticides shall participate in the Agricultural Commissioner's program by:

- (1) Identifying the types of pest problems that the City Department has;
- (2) Identifying types and quantities of pesticides currently in use by the City department;
- (3) Identifying the use of alternatives for banned pesticides;
- (4) Designating City department contact personnel who are responsible for the service for which the pesticides are used to regularly assess the efficacy of alternatives and to act as a resource for other City departments; and
- (5) Providing regular reports as required by the Agricultural Commissioner on the City department's efforts to implement the City IPM Policy.

(f) The Agricultural Commissioner shall determine the cost of maintaining the IPM implementation program. The Agricultural Commissioner may request that the City departments that use pesticides provide work orders to the Agricultural Commissioner to cover the cost of maintaining the program.

(g) No later than July 1, 1997 and quarterly thereafter, the Agricultural Commissioner shall report to the Commission on the Environment on the status of City department efforts to implement the City IPM Policy. The Department of the Environment shall provide an annual report to the Board of Supervisors on the status of City department efforts. (Added by Ord. 401-96, App. 10/21/96; amended Ord. 274-97, App. 7/3/97)

SEC. 39.7. RECORDKEEPING OF PESTICIDE APPLICATIONS. (a) Each City department that uses pesticides shall keep records of each pesticide application. Each application record shall include the following information:

- (1) The target pest;
- (2) The type and quantity of pesticide used;
- (3) The site of the pesticide application;
- (4) The date the pesticide was used;
- (5) The name of the pesticide applicator;
- (6) The application equipment used.

(b) Application records shall be made available to the public upon request in accordance with the provisions of the San Francisco Sunshine Ordinance, San Francisco Administrative Code, Chapter 67. (Added by Ord. 401-96, App. 10/21/96; amended Ord. 274-97, App. 7/3/97)

SEC. 39.8. EXEMPTIONS. (a) Notwithstanding any other provision of this Chapter, this Chapter shall not apply to the use of any pesticide, including any antimicrobial agent, for the purpose of improving or maintaining water quality at:

- (1) Drinking water treatment plants;
- (2) Wastewater treatment plants;
- (3) Reservoirs; and
- (4) Related collection, distribution and treatment facilities.

(b) Notwithstanding any other provision of this Chapter, this Chapter shall not apply to the use of antimicrobial agents for the following purposes:

- (1) Protecting public health and safety in the provision of health care;
- (2) Treatment of water in public swimming pools;
- (3) Treatment of water and facility heating, ventilation and air conditioning (HVAC) cooling water systems; and
- (4) Treatment of water in public fountains.

(c) Until January 1, 2000, this Chapter shall not apply to the use of antimicrobial agents for any purpose. By August 1, 1999, the Commission on the Environment shall make a recommendation to the Board of Supervisors on the extent to which the City should include antimicrobial agents not exempted under Subsections (a) or (b) in its IPM Policy. This recommendation shall be accompanied by a report prepared by the Department of the Environment evaluating the City's current use of antimicrobial agents and identifying less-toxic alternatives consistent with public health and safety. In developing the report, the Director of the Department of the Environment shall consult with representatives from the Department of Public Health, San Francisco

General Hospital, the Purchaser's Office, one or more environmental organizations concerned with integrated pest management and the Agricultural Commissioner.

(d) A City department may apply to the Department of the Environment for up to a one-year exemption from the pesticide ban imposed by Sections 39.3 or 39.4 for use of a particular pesticide for a particular use. Upon the filing of a complete application, the Department of the Environment shall submit the exemption request to the Commission on the Environment. The Commission on the Environment may grant the one-year exemption upon a finding that the City department has:

- (1) Made a good-faith effort to find alternatives to the banned pesticide;
- (2) Demonstrated that effective, economic alternatives to the banned pesticide do not exist for the particular use; and
- (3) Developed a reasonable plan for investigating alternatives to the banned pesticide during the exemption period.

(e) A City department may apply to the Department of the Environment for a limited use exemption for a particular pesticide banned pursuant to Section 39.3 or Section 39.4 and not covered by a one-year exemption. Upon the filing of a complete application, the Department of the Environment shall submit the exemption request to the Commission on the Environment. The Commission on the Environment may grant a limited-use exemption provided that the Commission finds that the City department will use the pesticide for a specific and limited purpose and for a short and defined period and the City department has identified a compelling need to use the pesticide.

(f) The Commission on the Environment may exempt a reduced-risk pesticide from the ban imposed by Section 39.4 upon a finding that the reduced-risk pesticide is commonly used as part of an IPM strategy. The Department of the Environment shall maintain a list of reduced-risk pesticides granted an exemption pursuant to this subsection. (Added by Ord. 401-96, App. 10/21/96; amended Ord. 274-97, App. 7/3/97; Ord. 361-98, App. 12/11/98)

SEC. 39.9. CITY CONTRACTS. (a) As of the effective date of this Section, when a City department enters into a new contract or extends the term of an existing contract, the contract shall obligate the contractor to comply with provisions of this Section 39.9(a):

(1) Effective January 1, 1998, the contractor shall comply with Sections 39.3, 39.5 and 39.7. In addition, effective January 1, 1998, the contractor shall submit to the City department an IPM implementation plan that lists the types and estimated quantities, to the extent possible, of pesticides that the contractor may need to apply to City property during its contract, outlines actions the contractor will take to meet the City IPM Policy in Section 39.1 to the extent feasible, and identifies the primary IPM contact for the contractor.

(2) Effective January 1, 1999, the contractor shall comply with Section 39.4(a).

(3) Effective January 1, 2000, the contractor shall comply with Section 39.4(b).

(b) As of the effective date of this Section, when a City department enters into a new contract or extends the term of an existing contract that authorizes a contractor to apply pesticides to City property, the City department shall submit an IPM implementation plan update to the Commission on the Environment that incorporates the pesticide usage of the contractor into the City department's IPM implementation plan.

(c) A contractor, or City department on behalf of a contractor, may apply for any exemption authorized under Section 39.8. (Added by Ord. 274-97, App. 7/3/97)

SEC. 39.10. GUIDELINES. The Department of the Environment may issue guidelines to assist City departments in the implementation of this Chapter. (Added by Ord. 274-97, App. 7/3/97)

CHAPTER 40

HOUSING CODE ENFORCEMENT LOAN PROGRAM

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ARTICLE I IN GENERAL

SEC. 40.1. PURPOSE. This Chapter provides for the administration and financing of a systematic Housing Code Enforcement Loan Program (HELP) in the City and County of San Francisco. The provisions of this Chapter and Chapter 32 of the San Francisco Administrative Code constitute the City and County's comprehensive residential rehabilitation financing program adopted pursuant to the Marks-Foran Residential Rehabilitation Act of 1973, Section 37910, et seq. of the Health and Safety Code.

The purpose of HELP is to improve the condition of housing for the public, especially low and moderate income tenants presently residing in apartments and residential hotels, and to improve the quality of life in San Francisco by providing a means through which owners of deteriorating residential property may obtain financial assistance to rehabilitate their property and maintain it in a residential use, thus preserving and enhancing the City and County's low income housing stock.

In establishing a systematic Housing Code Enforcement Loan Program, the Board of Supervisors finds and declares that:

(a) There is a shortage in San Francisco of safe, decent, and sanitary housing.
(b) The preservation of existing housing is the most effective way to provide decent housing in the City and County of San Francisco.

(c) The cost of repairing and upgrading substandard residential structures is generally far less costly than demolition and replacement housing.

(d) Rehabilitation of existing housing results in less personal hardship, involves less overall social costs, and retains neighborhood identity.

(e) A city/countywide program of systematic code enforcement in all multi-family buildings has been found to be a reliable manner in which to determine which of these existing residential structures are substandard and in need of rehabilitation.

(f) The cost of financing rehabilitation of such structures is a major and substantial factor affecting the supply and cost of decent, safe, and sanitary housing in San Francisco.

(g) The revenue bonds provided for in this Chapter will substantially lower the cost of financing such rehabilitation

(h) This lowered cost of rehabilitation financing will increase the supply of adequate housing by encouraging rehabilitation rather than demolition of these substandard buildings.

(i) The lowered cost of rehabilitation financing will increase the supply of adequate housing by speeding the rehabilitation of these substandard buildings.

(j) This lowered cost of rehabilitation financing will lower the cost of decent, safe, and sanitary housing in San Francisco.

(k) This lowered cost of rehabilitation financing is in the public interest and serves a public purpose by lowering the cost of maintaining an adequate supply of safe, decent, and sanitary housing in the City and County of San Francisco.

(l) A public purpose is also served by using rehabilitation financing, made available pursuant to this Chapter, to encourage voluntary code compliance in multi-family buildings located in San Francisco's Neighborhood Strategy Areas.

(m) Pursuant to regulations of the United States Department of Housing and Urban Development, the City and County of San Francisco has designated a number of Neighborhood Strategy Areas throughout the City and County. Such areas have been selected for comprehensive revitalization programs using a variety of local, state and federal programs; to upgrade and stabilize these residential communities.

(n) The City and County's goal of revitalization of these areas will be promoted if substandard multi-family buildings in the areas are brought into code compliance in advance of the time that these buildings would ordinarily be required to meet rehabilitation standards under a systematic code enforcement program.

(o) Allowing owners of multi-family buildings in such areas, who request a binding inspection of their buildings, to apply for rehabilitation financing pursuant to this Chapter will encourage voluntary code compliance.

(p) Encouraging voluntary code compliance for multi-family buildings located in Neighborhood Strategy Areas serves a public purpose in that it accelerates code compliance in buildings which will eventually be subject to a systematic code enforcement program and furthers the City and County's commitment to revitalize various neighborhoods throughout the City and County.

(q) The shortage of safe, decent and sanitary housing is especially acute for low and moderate income tenants of apartments and residential hotels.

(r) A public purpose is also served by minimizing the displacement of existing tenants of buildings rehabilitated under this program by establishing effective tenant protections and by prohibiting the use of HELP loans for the conversion of multifamily housing to condominium or commercial uses. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.2. DEFINITIONS. Unless the context otherwise requires, the following definitions govern the construction of this Chapter:

(a) "Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by the City and County pursuant to this Chapter and which are payable exclusively from revenues, as defined, and from any other funds specified in this Chapter upon which the bonds may be made a charge and from which they are payable.

(b) "City" means the City and County of San Francisco.

(c) "Commercial Use" means any nonresidential use including, but not limited to, a store, office, manufacturing facility, warehouse, or other business facility. For the purpose of this Chapter, commercial use shall include a tourist facility or tourist hotel.

(d) "Conventional HELP Loan" means any loan made for the purpose of meeting rehabilitation standards pursuant to the provisions of this Chapter.

(e) "Financing" means the lending of moneys or any other thing of value for the purpose of repair and improvement of a residence necessary to meet rehabilitation standards.

(f) "Housing Code Enforcement Loan Program" or "HELP" has the same meaning as "program."

(g) "Loan Committee" means the committee established in accordance with Section 40.13.

(h) "Loan Fund" means the fund established with the proceeds of bonds issued pursuant to the provisions of this Chapter or any other fund established for the purpose of making loans to property owners pursuant to this Chapter.

(i) "Low and Moderate Income Household" means a household whose income does not exceed 120 percent of the median income for the City and County by family size.

(j) "Multi-Family Buildings" means buildings containing three or more dwellings units, as defined in the San Francisco Housing Code, or more than six guest rooms as defined in the San Francisco Housing Code.

(k) "Neighborhood Strategy Area" means an area designated by the City and County as a "Neighborhood Strategy Area" as that term is defined in regulation issued by the United States Department of Housing and Urban Development.

(l) "Participating Party" means any person, company, corporation, partnership, firm or other entity or group of entities requiring financing for the purpose of meeting rehabilitation standards pursuant to the provisions of this Chapter.

(m) "Program" means the systematic Housing Code Enforcement Loan Program or HELP described in this Chapter and includes, but is not limited to, the

provisions for code enforcement and financing residential rehabilitation in a citywide program of systematic enforcement of rehabilitation standards in all multi-family buildings.

(n) "Rehabilitation Standards" means the standards established in the City Housing Code and other applicable codes relating to the physical conditions of existing residential structures.

(o) "Residence" means real property improved with a residential structure.

(p) "Residential Rehabilitation" means the repairs and improvements to a substandard residential structure necessary to meet rehabilitation standards.

(q) "Systematic Enforcement" means the enforcement of rehabilitation standards in accordance with a systematic program of making inspections of all multi-family dwelling structures in accordance with objective criteria for selection or order of selection of dwelling structures to be inspected. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.3. REFERENCES TO PUBLIC OFFICIALS AND PUBLIC AGENCIES. (a) Unless otherwise indicated, all public officials and public agencies named in this Chapter are officials and agencies of the City and County.

(b) Whenever a City and County official is referred to in this Chapter, the reference includes that official and his or her designee or designees.

(c) All references to the Charter or to ordinances are references to the Charter or to ordinances of the City and County. (Added by Ord. 482-80, App. 10/17/80)

ARTICLE II

RESPONSIBILITIES OF BOARD OF SUPERVISORS

SEC. 40.4. ISSUANCE OF BONDS. The Board of Supervisors may from time to time by resolution authorize procedures for the issuance of bonds for the purpose of establishing a loan fund to be used to assist property owners with the rehabilitation of residential structures as required in a City and County-wide program of systematic enforcement of rehabilitation standards in multi-family buildings. The repayment of principal, interest and other charges on the loans to the property owners, together with such other moneys as the Board of Supervisors may, in its discretion, make available therefor, shall be the sole source of funds pledged by the City and County for repayment of such bonds.

Bonds issued under the provisions of this Chapter shall not be deemed to constitute a debt or liability of the City and County or a pledge of the faith and credit of the City and County, but shall be payable solely from the funds specified in this Section. The issuance of such bonds shall not directly, indirectly or contingently obligate the Board of Supervisors to levy or to pledge any form of taxation whatever therefore, or to make any appropriation for their payment. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.5. APPROVAL OF FEES, CHARGES AND INTEREST RATES ON FINANCING. The Board of Supervisors shall, upon the recommendation of the Chief Administrative Officer, approve by resolution prior to levy, all fees, charges and interest rates to be charged participating parties in connection with financing residential rehabilitation. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.6. REVISION OF LOAN CHARGES. Prior to any revision of the fees, charges and interest rates for financing residential rehabilitation, the Board of Supervisors shall prescribe standards for the revision of such fees, charges and interest rates. Such standards:

(a) Shall be adopted by the Board of Supervisors after a public hearing preceded by public notice to affected parties; and

(b) May reflect only changes in interest rates on the City and County's bonds, losses due to defaults, and bona fide changes in loan servicing charges related to the administration of a program under the provisions of this Chapter. (Added by Ord. 482-80, App. 10/17/80)

ARTICLE III

ADMINISTRATION OF PROGRAM

SEC. 40.7. RESPONSIBILITY FOR ADMINISTRATION OF THE PROGRAM. The Chief Administrative Officer shall be responsible for administration of all aspects of the Housing Code Enforcement Loan Program except those aspects for which responsibility is specifically retained by the Board of Supervisors or assigned by the Board of Supervisors to another City and County agency. The Chief Administrative Officer, and each City and County agency assigned responsibilities by or pursuant to this Chapter, shall have all such authority as may be reasonably necessary to carry out those responsibilities. While retaining overall responsibility for administration of the program, the Chief Administrative Officer shall utilize the services of the Bureau of Building Inspection of the Department of Public Works in connection with the code enforcement aspects of the program; and the services of the Real Estate Department in connection with the rehabilitation financing aspects of the program. The Chief Administrative Officer may also request the assistance of any other City and County agency in meeting his or her responsibilities under this program. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.8. ADOPTION OF OBJECTIVE SELECTION CRITERIA FOR SYSTEMATIC ENFORCEMENT OF REHABILITATION STANDARDS. (a) The Chief Administrative Officer shall adopt objective selection criteria for the systematic enforcement of rehabilitation standards in all multi-family buildings. Such criteria shall be recommended to the Chief Administrative Officer by the Superintendent of the Bureau of Building Inspection.

(b) Criteria for the order of selection of multi-family buildings to be inspected shall be based upon the seriousness and frequency of occurrence of Housing Code and other City and County code violations constituting a threat to public health and safety. Such hazardous conditions include, but are not limited to, lack of proper

egress, improper use and occupancy, storage of flammable or combustible materials, and lack of safety devices such as smoke and heat detection devices, fire alarms, stairway enclosures, and sprinkler systems. Data on hazardous conditions in these buildings shall be obtained from a survey conducted by the Division of Apartment House and Hotel Inspection of the Bureau of Building Inspection which was conducted in 1969 and which is periodically updated.

(c) Before the Superintendent of the Bureau of Building Inspection recommends the adoption of objective selection criteria, the Superintendent shall conduct a public hearing at which the objective selection criteria will be discussed.

(d) At least 10 days preceding the hearing, the Superintendent shall make proposed objective selection criteria available for public inspection at the Bureau of Building Inspection.

(e) At least 10 days preceding the hearing, notice of the hearing shall be published once in a newspaper of general circulation published in San Francisco. The notice shall state the time, place and purpose of the hearing. The notice shall also state that the Superintendent's proposed objective selection criteria are available for public inspection at the Bureau of Building Inspection.

(f) After the Chief Administrative Officer has adopted objective selection criteria, the following procedure must be observed before the Chief Administrative Officer can change the criteria:

(1) A copy of the proposed change shall be made available for public inspection at the Bureau of Building Inspection at least 10 days before a proposed change can become final.

(2) Notice of the proposed change must be published once in a newspaper of general circulation published in San Francisco at least 10 days before the proposed change can become final. The notice shall state the nature of the proposed change and the fact that the text of the proposed change is available for public inspection at the Bureau of Building Inspection.

(3) The Superintendent of the Bureau of Building Inspection shall mail a copy of the notice specified in Section 40.8 (f) (2) to all persons who have submitted a request in writing to the Superintendent that they receive copies of such notices. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.9. INSPECTION OF BUILDINGS IN NEIGHBORHOOD STRATEGY AREAS. (a) An owner of a multi-family building located in a Neighborhood Strategy Area may request that his or her building be inspected, for the purpose of determining if it meets rehabilitation standards, in advance of the time that such building would ordinarily be inspected pursuant to the criteria established in Section 40.8. The owner shall submit a written request for this inspection to the Superintendent of the Bureau of Building Inspection. After receiving such a request, the Superintendent shall have the building inspected and, if the building is found to be substandard, the owner will be eligible to apply for a loan pursuant to this Chapter.

(b) Such inspections will be binding on the owner of the building even if this owner is later found not to be eligible for a loan pursuant to this Chapter.

(c) The Superintendent of the Bureau of Building Inspection shall include notice of the availability of the inspection program described in this Section in the annual billing for the permit of occupancy license fee for multi-family buildings.

Such notice shall state that owners who request these inspections will be eligible to apply for rehabilitation financing pursuant to this part. The notice shall plainly describe the Superintendent's evaluation of the possibility that in the next succeeding year funds will not be available to fund all applications meeting the program criteria in a timely fashion, and that in such case priority for buildings qualifying under this Section will be given to those buildings in which 50 percent or more of the units, as shown in the loan application, are such that the units meet the definition of "low income housing stock" in Chapter 13 (Subdivision Code) of the Municipal Code of the City and County of San Francisco. The notice shall also state that the boundaries of Neighborhood Strategy Areas will be available for public inspection at the Bureau of Building Inspection. The notice shall also state that the inspections will be binding on the owners. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.10. RULES AND REGULATIONS. (a) The Chief Administrative Officer shall adopt such rules and regulations as he or she may deem appropriate to carry out the provisions of this Chapter. A copy of all such rules and regulations shall be available for review by the public during regular business hours in the office of the Chief Administrative Officer, the office of the Clerk of the Board of Supervisors, the Department of Public Works, and in every other office established for the purpose of carrying out this program.

(b) Before the Chief Administrative Officer adopts these rules and regulations, the Chief Administrative Officer or his or her delegate shall conduct a public hearing at which the rules and regulations will be discussed.

(c) At least 10 days preceding the hearing, the Chief Administrative Officer shall make the proposed rules and regulations available for public inspection at the Bureau of Building Inspection.

(d) At least 10 days preceding the hearing, notice of the hearing shall be published once in a newspaper of general circulation published in San Francisco. The notice shall state the time, place and purpose of the hearing. The notice shall also state that the proposed rules and regulations are available for public inspection at the Bureau of Building Inspection.

(e) After the Chief Administrative Officer has adopted rules and regulations, the following procedure must be observed before the Chief Administrative Officer can change the rules and regulations:

(1) A copy of the proposed change shall be made available for public inspection at the Bureau of Building Inspection at least 10 days before a proposed change can become final.

(2) Notice of the proposed change must be published once in a newspaper of general circulation published in San Francisco at least 10 days before the proposed change can become final. The notice shall state the nature of the proposed change and the fact that the text of the proposed change is available for public inspection at the Bureau of Building Inspection.

(3) The Superintendent of the Bureau of Building Inspection shall mail a copy of the notice specified in Section 40.9 (e) (2) to all persons who have submitted a request in writing to the Superintendent that they receive copies of such notices. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.11. MANAGEMENT OF BOND PROCEEDS. Unless provided otherwise in any bond resolution adopted pursuant to the provisions of this Chapter, the Chief Administrative Officer, acting on the recommendation of the Controller:

(a) May invest and reinvest both the bond proceeds and the revenues from the financing of residential rehabilitation; and

(b) May manage fiscally the proceeds of bonds issued for the purpose of establishing a residential rehabilitation loan fund; or

(c) Together with the Purchaser may enter into contractual arrangement with private lending institutions or trust companies to manage the residential rehabilitation loan fund, including investment and reinvestment of the funds, disbursements from the fund and collection of revenues. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.12. RECOMMENDATION OF FEES, CHARGES, AND INTEREST RATES ON FINANCING. The Chief Administrative Officer, acting on the advice of the Controller, shall recommend to the Board of Supervisors for adoption:

(a) The fees, charges and interest rates which will be charged participating parties in connection with financing residential rehabilitation; and

(b) Revisions, as necessary, of the fees, charges and interest rates levied on participating parties, consistent with the standards adopted by the Board of Supervisors pursuant to Section 40.6. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.13. NOTICE OF DEFAULTS AND FORECLOSURES. When there is a default on a conventional HELP loan secured by a deed of trust naming the City and County as a beneficiary and the property becomes subject to foreclosure procedures, the Chief Administrative Officer shall so inform the Loan Committee. (Added by Ord. 482-80, App. 10/17/80)

ARTICLE IV

LOAN COMMITTEE

SEC. 40.14. LOAN COMMITTEE — MEMBERSHIP. There shall be a Loan Committee, whose members shall serve without compensation, consisting of the following members, all of whom shall be residents of the City and County:

(a) One individual, with permanent residence as a tenant in the City and County, appointed by the Mayor.

(b) One individual, with permanent residence as a tenant in the City and County, appointed by the President of the Board of Supervisors.

(c) One individual appointed by the Controller.

(d) One individual qualified in the field of real estate lending and financing who shall be appointed by the Chief Administrative Officer.

(e) One individual who is a permanent employee of the Real Estate Department. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.15. LOAN COMMITTEE — FUNCTIONS. The functions of the Loan Committee are as follows:

(a) The Loan Committee shall periodically review the rules and procedures and standards for the granting of residential rehabilitation loans and shall recommend changes as needed to the Chief Administrative Officer.

(b) The Loan Committee shall review and recommend approval or denial of applications required to be considered by the Loan Committee by or pursuant to this Chapter.

(c) The Loan Committee shall operate in a manner consistent with by-laws which shall be developed by the Loan Committee and approved by the Chief Administrative Officer, and the recommendation of approval or denial of loan applications shall be in accordance with the requirements contained in, or adopted pursuant to, this Chapter. (Added by Ord. 482-80, App. 10/17/80)

ARTICLE V

REHABILITATION FINANCING

SEC. 40.16. ELIGIBILITY FOR LOAN. (a) Each owner of a residential multi-family building inspected pursuant to a systematic program of enforcement of rehabilitation standards or pursuant to the voluntary inspection program defined in Section 40.9 of this Chapter is eligible for a loan, provided the owner demonstrates to the satisfaction of the Chief Administrative Officer the ability to repay such a loan; applies for the loan within a time period to be designated by the Chief Administrative Officer; and can meet the other requirements of this Chapter. The property owner shall agree to all conditions of the loan agreement as a prerequisite to obtaining a loan. No elective officer of the state or any of its subdivisions shall be eligible to receive a loan under the provisions of this Chapter.

(b) No owner shall be eligible for a loan under the program if the owner has in the 12 months preceding the date of application:

(1) Attempted to, or intentionally did cause any tenant to vacate his or her premises in the subject building, other than for those causes defined as just cause by the San Francisco Rent Stabilization and Arbitration Ordinance or other ordinance or general law limitation on cause for eviction as may be applicable to the building; or

(2) Attempted to, or intentionally did cause any tenant to vacate his or her premises in the subject property by the use of coercion, intimidation, harassment, undue influence, or any means contrary to law; or

(3) Caused the conversion of any residential hotel unit to any other use or any apartment unit to tourist hotel unit use in the subject building subsequent to November 23, 1979 in violation of the San Francisco Residential Hotel Unit Conversion, Demolition and Change in Use Ordinance, or such other ordinance or law as may be applicable to the conversion of such units at the time of such conversion.

Any owner found ineligible for any of the above reasons may not reapply for a loan under this Chapter for a period of 18 months from the date of final denial. Each loan applicant shall be required as part of the application process to sign an affidavit

swearing under penalty of perjury that he or she has not engaged in any of the prohibited practices specified herein during the 12 months preceding the date of application.

(c) In any year in which the Chief Administrative Officer determines that in the next succeeding year funds will not be available to fund all applications meeting the program criteria in a timely fashion, priority shall be given to those buildings inspected pursuant to Section 40.8, and second priority to those buildings qualifying under Section 40.9 in which 50 percent or more of the units, as shown in the loan application, are such that the units meet the definition of "low income housing stock" in Chapter 13 (Subdivision Code) of the Municipal Code of the City and County of San Francisco.

(d) Any owner who is denied a loan by the Chief Administrative Officer on the grounds that the owner does not meet eligibility requirements may appeal the decision to the Loan Committee. Any tenant of a building for which approval has been granted may appeal the approval on grounds of ineligibility under Subdivision (b) of this Section. The Loan Committee shall review the application for a loan and make a recommendation regarding approval or denial to the Chief Administrative Officer.

In reviewing the application, the Loan Committee shall give due consideration to the need for the loan to be made in order to accomplish the purposes of the program, the risks to the City and County of granting the loan, and the ability of the property to support the loan as well as the reasons for approval or denial of the application by the Chief Administrative Officer. If the Chief Administrative Officer does not accept the recommendation of the Loan Committee, he or she shall give written reasons for the refusal to approve or deny the loan. (Added by Ord. 482-80, App. 10/17/80)

ARTICLE VI

FINANCING LIMITATIONS

SEC. 40.17. MAXIMUM INDEBTEDNESS ON PROPERTY. Outstanding loans on the property to be rehabilitated, including the amount of the loan for rehabilitation, shall not exceed 80 percent of the anticipated after-rehabilitation value of the property to be rehabilitated, as determined by the Chief Administrative Officer, except that the Chief Administrative Officer may authorize loans of up to 95 percent of the anticipated after-rehabilitation value of the property if:

(a) Such loans are made for the purpose of rehabilitating the property for residential purpose;

(b) There is demonstrated need for such higher limit; and

(c) There is a high probability that the value of the property will not be impaired during the term of the loan. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.18. MAXIMUM AMOUNT OF LOAN. The loan shall be made only for the purpose of meeting rehabilitation standards and the maximum amounts shall be as follows: Three units, \$10,000 per unit; four or more units, \$7,500 per unit; and guest rooms, as defined in Section 203.7 of the Housing Code,

\$2,500 per unit. The Chief Administrative Officer may approve a loan in excess of these amounts following guidelines established by the Chief Administrative Officer only where such excess financing will result in the creation of additional housing units by making habitable a multi-family building which has been abandoned or vacated for a period of one year prior to the date of application, or by the conversion of a multi-family building or portion thereof from commercial use to noncommercial use; provided, that in no case may the loan exceed \$17,500 per unit for dwelling units and \$11,500 per unit for guest rooms. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.19. LIMITATION BASED ON FAIR MARKET VALUE OF WORK. (a) Prior to granting of any loan over \$20,000 under this Chapter, a qualified estimator hired by the borrower will make an on-premises inspection of the applicant's property and certify, in writing, the fair market value of the recommended work as detailed in the job specifications.

(b) Where loan is under \$20,000 and low bid exceeds estimate of building inspector by 10 percent, the borrower will hire a qualified estimator to certify, in writing, the fair market value of the work as detailed in the job specifications.

(c) A qualified estimator is a person:

(1) Who is not a City and County employee; but

(2) Who is approved by the Chief Administrative Officer because he or she is qualified and experienced in the area of residential rehabilitation.

The estimator shall operate under the direction of the Director of the Real Estate Department.

(d) No loan will be granted in an amount exceeding 110 percent of the fair market value of the recommended work as specified in the job specifications as certified in writing by a qualified estimator, or higher than the lowest bid received, whichever is less, without the approval of the Chief Administrative Officer.

(e) The Chief Administrative Officer shall, semi-annually, direct a report to the Board of Supervisors setting forth a list of the loans which were in excess of 110 percent of fair market value pursuant to the provisions of Subdivision (d) giving the reasons for approval in each case. (Added by Ord. 482-80, App. 10/17/80)

ARTICLE VII

TERMS OF LOANS

SEC. 40.20. MAXIMUM REPAYMENT PERIOD FOR LOAN; INITIATION OF PAYMENTS AFTER REHABILITATION. (a) The maximum repayment period for a HELP loan shall be 20 years or three-fourths of the economic life of the property, whichever is less.

(b) Subject to budgetary and fiscal limitations, and approval of the Chief Administrative Officer, payments on a HELP loan may not be required to commence prior to completion of the improvements for which such loan is made; provided, that payments shall begin no later than six months after an initial disbursement from proceeds of the loan. The monthly payment due under the loan

shall be adjusted to insure repayment of the principal and interest due on the loan within the time required by Paragraph (a) of this Section. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.21. SECURITY FOR LOAN. Unless provided otherwise in any bond resolution issued pursuant to the provisions of this Chapter, every HELP loan shall be secured by a deed of trust naming the City and County as beneficiary of the trust. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.22. IMPOUND ACCOUNT. If the Chief Administrative Officer deems it desirable and necessary to effectuate the purposes of the program that an impound account be required to assure taxes, insurance, or a maintenance reserve, he or she may include such a requirement in any HELP loan agreement. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.23. TRANSFER OF LOANS. (a) The unpaid amount of a HELP loan shall be due and payable upon sale or transfer of the ownership of the property, except that assignment of the unpaid amount of such a loan to a purchaser or transferee may be permitted when the Chief Administrative Officer determines that hardship conditions exist and the prospective owner qualifies for a loan on the basis of current loan eligibility standards.

(b) If the holder of a HELP loan is dissatisfied with the Chief Administrative Officer's refusal to permit transfer of the unpaid amount of the loan because of a finding that hardship conditions do not exist, the holder of the loan may request review of the Chief Administrative Officer's determination by the Loan Committee. If the Loan Committee recommends a finding that hardship conditions exist, the Chief Administrative Officer shall either accept that recommendation or give written reasons for the refusal to accept it.

(c) Hardship conditions exist:

(1) When the owner of property subject to a HELP loan is forced to sell the property and the property cannot be sold without a substantial loss of equity unless the loan is transferable;

(2) When the income of a prospective purchaser of property subject to a HELP loan is at or below income standards to be established by the Chief Administrative Officer; or

(3) When the prospective purchaser is unable to obtain financing in the private sector because of age, disability or sex; or

(4) When transfer of the loan is necessary to prevent significant rent increases.

(d) The Chief Administrative Officer shall develop standards which shall be applied in making determinations required under this Section. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.24. INTEREST RATES AND OTHER LOAN CHARGES. The interest rate and any other charges to the borrower for a HELP loan shall be established pursuant to the provisions of Sections 40.5 and 40.11, and may include:

(a) The interest charged the City and County on funds borrowed to carry out the provisions of this Chapter;

- (b) An amount needed to provide for possible defaults on outstanding loans;
- (c) An amount to cover the cost of issuing loans;
- (d) An amount to cover the cost of servicing loan accounts;
- (e) An amount to cover the costs of issuing bonds;
- (f) An amount to cover the costs of the administration of the loans including, but not limited to, loan officer services, title report, and credit report. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.25. TENANT MOVING COSTS AND RIGHT OF FIRST REFUSAL; RENT FOR REOCCUPIED UNITS. (a) Every loan application for the HELP program shall report the current rents of each unit in the building for which assistance is sought.

(b) In the case of dwelling units which the Superintendent of the Bureau of Building Inspection certifies as dwelling units which must be vacated because of residential rehabilitation to be performed on the structure where they are located with assistance from the HELP program —

(1) The property owner is responsible for paying the reasonable cost of moving expenses only of each low and moderate income household displaced from such a unit; maximum moving expense shall not be in excess of \$500;

(2) Any tenant who must vacate such a dwelling unit shall have the right of first refusal to occupy that unit when rehabilitation of the property is completed;

(3) Notwithstanding any other provisions of the San Francisco Rent Stabilization and Arbitration Ordinance, or any rules or regulations promulgated in accordance with that ordinance, and notwithstanding the provisions of any successor ordinance or law regulating rent increases which is in effect at the time the HELP loan is made, the rent charged to any tenant who next occupies such a unit following rehabilitation may not exceed the rent which could be charged a reoccupying tenant under the terms of such ordinance or law in effect at the time the HELP loan is made (the prior rent adjusted in accordance with Section 37.9 (a) (11) of Chapter 37 of the San Francisco Administrative Code or comparable provisions of the ordinance in effect at the time the HELP loan is made).

For purposes of Section 37.9 (a) (11) the rehabilitation cost which is permitted to be passed on as a rent increase to any tenant who chooses to occupy a dwelling unit after rehabilitation of the property has been completed shall be amortized over the original amortization period of the HELP loan.

(4) The property owner shall give each tenant living in such a unit written notice, 30 days prior to the date the tenant must vacate, of the right to have no more than \$500 of the reasonable cost of moving the household paid, if the household qualifies as a low and moderate income household, and of the right to first refusal to reoccupy the unit at the prior rent adjusted in accordance with Section 37.9 (a) (11) of Chapter 37 of the San Francisco Administrative Code, or successor provision, as modified in clause (3) above. A copy of the notice specified in clause (3) shall be forwarded to the Chief Administrative Officer.

(c) The requirements of Subdivision (b) shall be included in the terms of each HELP loan agreement.

(d) The anticipated cost of moving households affected by residential rehabilitation may be included in the property owner's loan.

(e) The determinations of qualification as a low and moderate income household and of the amount of moving expenses due a tenant shall be made by the Central Relocation Service of the Mayor's Office using the standard schedule for such computation. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.26. OPEN HOUSING. All HELP agreements shall provide that so long as the loan or any portion of it is outstanding the property shall be open, upon sale or rental of all or any portion thereof, to all persons regardless of race, sex, marital status, color, religion, national origin or ancestry. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.27. EQUAL EMPLOYMENT OPPORTUNITY. All HELP loan agreements shall provide that all contracts and subcontracts let for residential rehabilitation financed under this Chapter are to be let without regard to the race, sex, marital status, color, religion, national origin or ancestry of the contractor or subcontractor. Further, all HELP loan agreements shall provide that any contractor or subcontractor engaged in residential rehabilitation financed under this Chapter must agree to provide equal opportunity for employment without regard to race, sex, marital status, color, religion, national origin or ancestry. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.28. ENFORCEMENT OF LOAN PROVISIONS. The provisions of Section 40.26 and the provisions of Section 40.27 as they relate to enforcement of nondiscrimination on the basis of race, sex, marital status, color, religion, national origin or ancestry, are enforceable by the Human Rights Commission. The enforcement powers, responsibilities and procedures of the Human Rights Commission set forth in Chapters 12A and 12B of the San Francisco Administrative Code shall be applicable to carry out the Commission's responsibilities under this Chapter. (Added by Ord. 482-80, App. 10/17/80)

ARTICLE VIII

MISCELLANEOUS PROVISIONS

SEC. 40.29. LIMITATIONS ON CONVERSIONS. (a) HELP loans are intended to be used only for the purpose of maintaining eligible multi-family buildings for their current use. No HELP loan may be used for rehabilitation for the purpose of conversion of a multi-family building, or portion thereof, to a condominium; for conversion to a tourist hotel unit, as defined in the Residential Hotel Unit Conversion Demolition and Change in Use Ordinance; or for conversion to commercial use; nor may any owner cause any such conversion while the loan is still outstanding.

(b) No building, or portion thereof, may be converted to such condominium, tourist hotel unit, or commercial use for a period of five years following the recording of a HELP loan on the building, nor for a period of five years following the assumption of such a HELP loan within the first five-year period, whether

intentionally or unintentionally, and whether by the original borrower or a successor in interest. To assure notice and enforceability of this requirement as affects successors in interest, no HELP loan shall be made without the recording of deed restrictions as provided in this paragraph.

(c) Every HELP loan agreement shall include agreement to comply with Subdivisions (a) and (b) of this Section.

(d) No City and County agency may approve any building permit or subdivision map which would permit violation of this Section.

(e) Every borrower, or successor obligor, of a HELP loan shall annually file with the Bureau of Building Inspection an affidavit swearing under penalty of perjury that no conversion prohibited by this Section has occurred during the preceding year.

(f) Except as provided in Subdivision (b) of this Section, nothing in this Section shall prevent conversions of multi-family buildings assisted under the program following repayment of the entire balance due on the HELP loan. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.30. RELOCATION ASSISTANCE. (a) In addition to moving costs, a tenant displaced because of rehabilitation financed pursuant to this Chapter of the dwelling unit or building in which the tenant lives may be eligible for relocation assistance under the City and County's Special Rent Assistance Program under the Central Relocation Service of the Mayor's Office.

(b) If state or federal funds are available for relocation assistance, such funds shall be provided to eligible recipients pursuant to State law. If such funds are available, the Chief Administrative Officer shall notify all owners and tenants of buildings rehabilitated with assistance of financing issued pursuant to this Chapter of the availability of various types of relocation benefits, the eligibility requirements for relocation benefits and the procedures for obtaining relocation benefits; and the terms and conditions under which the relocation costs shall be reimbursed to the City and County by the owner.

(c) Current and continuing information on the availability and cost of comparable housing and comparable commercial properties and locations will be maintained and available to the public at the Central Relocation Services Office.

(d) Information concerning federal and State housing programs, disaster loan and other programs administered by the Small Business Administration, and other federal or State programs offering assistance to displaced persons, will be available at the Central Relocation Services Office.

(e) Persons who believe that they have been discriminated against in the rehousing process will be referred to the Human Rights Commission for either action or referral to the appropriate law enforcement agencies.

(f) Central Relocation Services shall be responsible for administration of any relocation benefits provided pursuant to this Section. (Added by Ord. 482-80, App. 10/17/80)

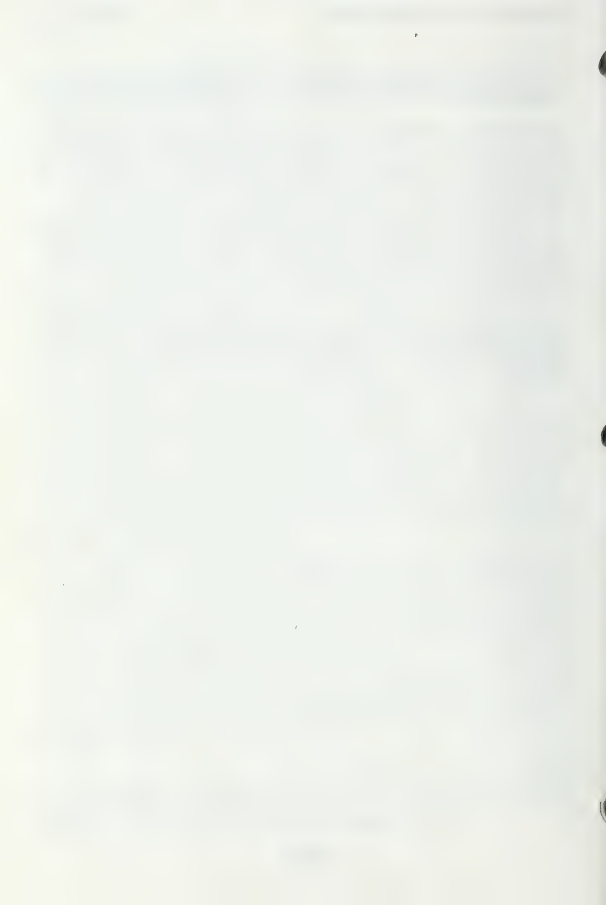
SEC. 40.31. PRIVATE CAUSE OF ACTION. Any tenant of any dwelling unit benefited by any HELP loan whose rent may be increased, who may be displaced, or who may otherwise be injured by any violation of any term of the HELP loan agreement shall be entitled to institute a private action:

- (a) To enjoin continued violation of the HELP loan agreement; and
 - (b) To recover any actual damages suffered as well as costs and attorneys fees.
- (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.32. REVIEW. This ordinance shall be reviewed by the Board of Supervisors within two years of the date on which it takes effect. At such time the Board of Supervisors shall conduct hearings regarding the continuation, revision, or termination of the program and as to whether this Chapter should continue in effect, be amended, or be repealed. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.33. CONSTRUCTION AND EFFECT OF CHAPTER. The provisions of this Chapter, being necessary for the welfare of the City and County of San Francisco and its inhabitants, shall be liberally construed to effect its purposes. (Added by Ord. 482-80, App. 10/17/80)

SEC. 40.34. SEVERABILITY. If any provision of this Chapter, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the chapter and the applicability of such provisions to other persons and circumstances shall not be affected thereby. (Added by Ord. 482-80, App. 10/17/80)



CHAPTER 41

RESIDENTIAL HOTEL UNIT CONVERSION AND DEMOLITION

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Sec. 41.17.	Rights of Permanent Residents.
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Sec. 41.20.	Unlawful Conversion; Remedies; Fines.
Sec. 41.21.	Annual Review of Residential Hotel Status.
Sec. 41.22.	Construction.

SEC. 41.1. TITLE. This Chapter shall be known as the Residential Hotel Unit Conversion and Demolition Ordinance. (Added by Ord. 121-90, App. 4/12/90)

SEC. 41.2. PURPOSE. It is the purpose of this ordinance to benefit the general public by minimizing adverse impact on the housing supply and on displaced low income, elderly, and disabled persons resulting from the loss of residential hotel units through their conversion and demolition. This is to be accomplished by establishing the status of residential hotel units, by regulating the demolition and conversion of residential hotel units to other uses, and by appropriate administrative and judicial remedies. (Added by Ord. 121-90, App. 4/12/90)

SEC. 41.3. FINDINGS. The Board of Supervisors finds that:

(a) There is a severe shortage of decent, safe, sanitary and affordable rental housing in the City and County of San Francisco and this shortage affects most severely the elderly, the disabled and low-income persons.

(b) The people of the City and County of San Francisco, cognizant of the housing shortage of San Francisco, on November 4, 1980, adopted a declaration of policy to increase the city's housing supply by 20,000 units.

(c) Many of the elderly, disabled and low-income persons and households reside in residential hotel units.

(d) A study prepared by the Department of City Planning estimated that there were only 26,884 residential hotel units in the City in December of 1979, a decrease of 6,098 such units from 1975. Since enactment of this Chapter, residential hotel units have continued to decrease, at a slower rate: in 1981, there were 20,466 residential hotel units as defined by this Chapter; in 1988, there were 18,723 residential hotel units, a decrease of 1,743 over a period of 7 years. The decrease is caused by vacation, conversion or demolition of residential hotel units. Continued vacation, conversion or demolition of residential hotel units will aggravate the existing shortage of affordable, safe and sanitary housing in the City and County of San Francisco.

(e) As a result of the removal of residential hotel units from the rental housing market, a housing emergency exists within the City and County of San Francisco for its elderly, disabled and low-income households.

(f) Residential hotel units are endangered housing resources and must be protected.

(g) The Board of Supervisors and the Mayor of the City and County of San Francisco recognized this housing emergency and enacted an ordinance which established a moratorium on the demolition or conversion of residential hotel units to any other use. The moratorium ordinance became effective on November 21, 1979.

(h) The conversion of residential hotel units affects those persons who are least able to cope with displacement in San Francisco's housing market.

(i) It is in the public interest that conversion of residential hotel units be regulated and that remedies be provided where unlawful conversion has occurred, in order to protect the resident tenants and to conserve the limited housing resources.

(j) The tourist industry is one of the major industries of the City and County of San Francisco. Tourism is essential for the economic well being of San Francisco. Therefore, it is in the public interest that a certain number of moderately priced tourist hotel units be maintained especially during the annual tourist season between May 1st and September 30th.

(k) Tourist activity has increased steadily in San Francisco since 1983. There are currently approximately 23,000 tourist hotel units in the City and over 3,000 additional such units will be added by 1988 through new construction. However, there are presently only 18,723 residential hotel units and this number is not increasing. In addition, rents for residential hotel units have risen an average of 23 percent annually since 1980, making such units less and less affordable as a housing resource for the elderly, disabled and low-income persons. Since the adoption of this ordinance, hotel owners have begun to leave residential units vacant during the non-tourist season (October 1st — April 30th) in order to rent these units to tourists at high daily rental rates during the tourist season (May 1st — September 30th). This activity, which further reduces the available supply of low and moderate income housing in San Francisco, is not presently prohibited under this Chapter. In order to assure that residential hotel owners do not continue to withhold these available residential units from prospective permanent residents during the non-tourist season, it is necessary to restrict the tourist season rental of vacant residential hotel units. Such a restriction will not interfere with San Francisco's tourism, which remains essential to the economic well-being of the City.

(l) Since enactment of this Chapter, it has become apparent that portions of

this Chapter were difficult and extremely costly to interpret and enforce, resulting in an inability to fulfill the essential intent of this Chapter and to prevent illegal conversions.

(m) Since enactment of this Chapter, residential units have been converted to tourist units and the hotel operators have paid the 40 percent in-lieu fee to the City. This amount, 40 percent of the cost of construction of comparable units plus site acquisition cost, has not been adequate to provide replacement units. Federal, state and local funds were incorrectly assumed at that time to be available and sufficient to make up the shortfall between the 40 percent in-lieu fee and actual replacement costs. For example, in 1979 the federal government was spending 32 billion dollars on housing and is spending only 7 billion dollars in 1989.

(n) Certain uses provide both living accommodation and services, such as health care, personal care and counseling, to residents of the City. Examples of such uses are hospital, skilled nursing facility, AIDS hospice, intermediate care facility, asylum, sanitarium, orphanage, prison, convent, rectory, residential care facility for the elderly, and community care facility. Such facilities are often operated in buildings owned or leased by non-profit organizations and provide needed services to the City's residents. To subject such facilities to the provisions of this Chapter may deter future development of such facilities. It is desirable that such facilities exist and the City should encourage construction and operation of such facilities.

(o) In addition, a form of housing facilities called "transitional housing" provides housing and supportive services to homeless persons and families and is intended to facilitate the movement of homeless individuals and families to independent living or longer term supportive residences in a reasonable amount of time. Transitional housing has individual living quarters with physical characteristics often similar to a residential hotel (i.e. accommodations which provide privacy to residents) and provides a source of interim housing for homeless individuals and families seeking to live independently.

(p) The City's public, quasi-public and private social agencies serving the elderly and needy persons often find it difficult to immediately locate suitable housing units for such persons returning to independent living after hospitalization or upon leaving skilled-nursing or intermediate care facilities within a short time after their discharge from a health facility. Such persons often will require minimum supervision and other interim social service support. The provision of a stable number of housing units for such emergency needs until permanent housing can be secured and supportive services arranged are necessary and desirable for the City. Emergency housing will have physical characteristics similar to "transitional housing" and is often intended to be occupied for a period of less than one month.

(q) The City also wishes to provide positive incentive to encourage residential hotel owners and operators to comply with the terms of this Chapter. Hotel owners have expressed a need to rent certain residential units on a short term basis during the winter months. In an effort to address this need and to encourage compliance with this Chapter, the City wishes to provide an opportunity to hotel owners who have complied with the terms of this Chapter to rent a limited number of residential units to tourists during the winter months. (Added by Ord. 121-90, App. 4/12/90)

SEC. 41.4. DEFINITIONS. (a) **Certificate of Use.** Following the initial unit usage and annual unit usage determination pursuant to the provisions of Sections 41.6 and 41.10 below, every hotel shall be issued a certificate of use specifying the number of residential and tourist units herein.

(b) **Comparable Unit.** A unit which is similar in size, services, rental amount and facilities, and which is located within the existing neighborhood or within a neighborhood with similar physical and socioeconomic conditions.

(c) **Conversion.** The change or attempted change of the use of a residential unit as defined in subsection (q) below to a tourist use, or the elimination of a residential unit or the voluntary demolition of a residential hotel. However, a change in the use of a residential hotel unit into a noncommercial use which serves only the needs of the permanent residents, such as resident's lounge, storeroom or common area, shall not constitute a conversion within the meaning of this Chapter.

(d) **Disabled Person.** A recipient of disability benefits.

(e) **Elderly Person.** A person 62 years of age or older.

(f) **Emergency Housing.** A project which provides housing and supportive services to elderly or low-income persons upon leaving a health facility and which has its primary purpose of facilitating the return of such individuals to independent living. The emergency housing shall provide services and living quarters pursuant to Section 41.13 herein and may be provided as part of a "transitional housing" project.

(g) **Hotel.** Any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes and dwelling purposes by guests, whether rent is paid in money, goods, or services. It includes motels, as defined in Chapter XII, Part II of the San Francisco Municipal Code (Housing Code), but does not include any jail, health facilities as defined by Section 1250 of the Health and Safety Code, asylum, sanitarium, orphanage, prison convent, rectory, residential care facility for the elderly as defined in Section 1569.2 of the Health and Safety Code, residential facilities as defined in Section 1502 of the Health and Safety Code or other institution in which human beings are housed or detained under legal restraint, or any private club and nonprofit organization in existence on September 23, 1979; provided, however, that nonprofit organizations which operated a residential hotel on September 23, 1979 shall comply with the provisions of Section 41.8 herein.

(h) **Interested Party.** A permanent resident of a hotel, or his or her authorized representative, or a former tenant of a hotel who vacated a residential unit within the past 90 days preceding the filing of complaint or court proceeding to enforce the provisions of this Chapter. Interested party shall also mean any nonprofit organization, as defined in Section 41.4(k), which has the preservation or improvement of housing as a stated purpose in its articles of incorporation and/or bylaws.

(i) **Low-income Household.** A household whose income does not exceed 60 percent of the median income for the San Francisco Standard Metropolitan Statistical Area as published by the United States Department of Housing and Urban Development and Housing and Community Development Act of 1974.

(j) **Low-Income Housing.** Residential units whose rent may not exceed 30 percent of the gross monthly income of a low-income household as defined in subsection (i) above.

(k) **Nonprofit Organization.** An entity exempt from taxation pursuant to Title 26, Section 501 of the United States Code.

(l) **Operator.** An operator includes the lessee or any person or legal entity whether or not the owner, who is responsible for the day-to-day operation of a residential hotel and to whom a hotel license is issued for a residential hotel.

(m) **Owner.** Owner includes any person or legal entity holding any ownership interest in a residential hotel.

(n) **Permanent Resident.** A person who occupies a guest room for at least 32 consecutive days.

(o) **Posting or Post.** Where posting is required by this Chapter, material shall be posted in a conspicuous location at the front desk in the lobby of the hotel, or if there is no lobby, in the public entranceway. No material posted may be removed by any person except as otherwise provided in this Chapter.

(p) **Residential Hotel.** Any building or structure which contains a residential unit as defined in (q) below unless exempted pursuant to the provisions of Sections 41.5 or 41.7 below.

(q) **Residential Unit.** Any guest room as defined in Section 203.7 of Chapter XII, Part II of the San Francisco Municipal Code (Housing Code) which had been occupied by a permanent resident on September 23, 1979. Any guest room constructed subsequent to September 23, 1979 or not occupied by a permanent resident on September 23, 1979 shall not be subject to the provisions of this Chapter; provided however, if designated as a residential unit pursuant to Section 41.6 of this Chapter or constructed as a replacement unit, such residential units shall be subject to the provisions of this Chapter.

(r) **Tourist Hotel.** Any building containing six or more guest rooms intended or designated to be used for commercial tourist use by providing accommodation to transient guests on a nightly basis or longer. A tourist hotel shall be considered a commercial use pursuant to City Planning Code Section 216(b) and shall not be defined as group housing permitted in a residential area under City Planning Code Section 209.2.

(s) **Tourist Unit.** A guest room which was not occupied on September 23, 1979, by a permanent resident or is certified as tourist unit pursuant to Sections 41.6, 41.7 or 41.8 below. Designation as a tourist unit under this Chapter shall not supersede any limitations on use pursuant to the Planning Code.

(t) **Transitional Housing.** A project which provides housing and supportive services to homeless persons and families or low-income households at risk of becoming homeless which has as its purpose facilitating the movement of homeless individuals or at-risk low-income households to independent living within a reasonable amount of time. The transitional housing shall provide services and living quarters as approved by the Planning Commission that are similar to the residential unit being replaced pursuant to Section 41.13 herein and shall comply with all relevant provisions of City ordinances and regulations. (Added by Ord. 121-90, App. 4/12/90)

SEC. 41.5. APPLICABILITY OF THIS CHAPTER. The provisions of this Chapter shall not apply to:

(a) The change in use of a residential unit where the unit has been found to be

unfit for human habitation prior to November 23, 1979 and ordered to be vacated by the Department of Public Health; or

(b) A hotel wherein 95 percent of the guest rooms were tourist units on September 23, 1979; or

(c) A unit which rented for over \$1,000 per month on September 23, 1979; or

(d) A hotel in which 95 percent of the total number of guest rooms rented for more than \$1,000 per month on September 23, 1979; or

(e) A building which was unlawfully converted to a rooming house or hotel in violation of the provisions of the City Planning Code; or

(f) A building which meets the requirements of Section 41.7(c) below for a claim of exemption for partially-completed conversions; or

(g) A building which meets the requirements of Section 41.7(b) below for a claim of exemption for low-income housing; or

(h) A building which is lawfully approved by the City after September 23, 1979, and is not a replacement unit pursuant to Section 41.13 herein, so long as it is operated by a public entity or a nonprofit organization as a jail, health facilities as defined by Section 1250 of the Health and Safety Code, asylum, sanitarium, orphanage, prison, convent, rectory, residential care facility for the elderly as defined in Section 1569.2 of the Health and Safety Code, residential facilities as defined in Section 1502 of Health and Safety Code, or other institution in which human beings are housed or detained under legal restraint. (Added by Ord. 121-90, App. 4/12/90)

SEC. 41.6. INITIAL STATUS DETERMINATION. (a) **Filing of Initial Status Determination; Time Limit.** Within 30 calendar days of the mailing date of the summary of the ordinance and the prescribed reporting forms, the owner or operator of each hotel shall file either a statement of exemption, a claim of exemption based on low-income housing, a claim of exemption based on partially completed conversion, or an initial unit usage report as specified below. All filing shall be accompanied by supporting evidence. However, upon application by an owner or operator and upon showing a good cause therefor, the Superintendent of the Bureau of Building Inspection may grant an extension of time not to exceed 30 days for filing. Owner or operator shall post a notice on the day of filing that a copy of the initial status determination document filed with the Superintendent of the Bureau of Building Inspection is available for inspection between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday.

(b) **Filing of Initial Unit Usage Report.** All hotels not covered by the exemptions in Sections 41.5, 41.7 or 41.8 must file an initial unit usage report containing the following:

(1) The number of residential and tourist units in the hotel as of September 23, 1979;

(2) The designation by room number and location of the residential units and tourist units as of seven calendar days prior to the date of filing the report;

(3) The total number of residential and tourist rooms in the hotel as of seven calendar days prior to date of filing the report.

(c) **Insufficient Filing.** If the Superintendent of the Bureau of Building Inspection or his designee determines that additional information is needed to make a determination, the Superintendent shall request the additional information in

writing. The owner or operator shall furnish the requested information within 15 calendar days upon receipt of the written request. Owner or operator shall immediately post a notice that a copy of the requested information is available for inspection between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday at the Bureau of Building Inspection. If the requested information is not furnished, all the guest rooms not supported by evidence shall be deemed to be residential units.

(d) **Certification of Units.** The Superintendent of the Bureau of Building Inspection shall review the information and accompanying supporting data. A certified copy of hotel tax returns for the calendar year 1979 may be used to establish the number of tourist units and the Superintendent of the Bureau of Building Inspection or the Superintendent's designee may personally inspect units to establish the number of tourist units. If, in the opinion of the Superintendent of the Bureau of Building Inspection, the initial unit usage report is supported by adequate supporting evidence, the Superintendent shall certify the number of residential and tourist units within 90 calendar days of its submission. The owner or operator shall have the burden of proving the number of tourist units claimed by a preponderance of evidence.

Notwithstanding any other provisions in this Chapter, if an owner or operator took possession of the hotel operation after September 23, 1979 and before June 15, 1981, and if the owner or operator can demonstrate that good cause exists why he/she cannot obtain supporting evidence from the previous owner or operator to file the initial report, the owner or operator shall base his/her filing on information available to him/her two weeks after he/she took possession of the hotel; any units which are vacant on that date shall be allocated equally between tourist and residential uses; provided that a permanent resident may rebut this presumption by clear and convincing evidence.

After the Superintendent of the Bureau of Building Inspection certifies the number of residential and tourist units, the Superintendent shall issue a certificate of use. The Certificate of Use shall be posted permanently in the lobby or entranceway of the hotel.

(e) **Failure to File Statement of Exemption, Claim of Exemption or Initial Unit Usage Report.** If no initial unit usage report, or statement of exemption, or a claim of exemption based on partially completed conversion, or a claim of exemption based on low-income housing for all of the guest rooms, is filed for a hotel within the time set forth in Section 41.6(a), the Superintendent of Bureau of Building Inspection shall mail a notice to the owner or operator of record by registered or certified mail stating that all the rooms in the hotel shall be deemed residential units unless the owner or operator files unit usage report within 10 calendar days of the mailing date of said notice and that a late filing fee of \$50 will be assessed in addition to the fee set forth in Section 41.11 of this Chapter. If the owner or operator fails to submit a unit usage report within 10 calendar days after notification by the Bureau of Building Inspection, a certificate of use for residential units only shall be issued.

(f) **Appeal of Initial Determination.** An owner or operator may appeal the initial unit status determination by the Superintendent of the Bureau of Building Inspection provided that there was no challenge pursuant to the provisions of subsection (g) below, and further provided that an appeal is filed within 10 calendar days of the mailing of the certification. If an appeal is filed, a copy of the notice of

appeal shall be posted by the owner or operator and a hearing pursuant to the provisions of Section 41.8(b) shall be scheduled.

(g) **Challenge; Standing; Statute of Limitation.** Challenges to the information contained in the initial status determination report filed by the owner or operator may be filed by an interested party in writing provided that it is submitted within 15 calendar days from the date the report to the Bureau of Building Inspection is filed. Upon receipt of a challenge, a hearing shall be held by the Superintendent of the Bureau of Building Inspection or his designee pursuant to the provisions of Section 41.11(b). The owner or operator shall have the burden of proving by a preponderance of evidence that the information filed is correct.

(h) **Reporting Forms for Initial Unit Usage Report.** Compliance by any party or by the City of San Francisco with notice, filing, challenge, designation of unit and certification requirements of Ordinance 330-81 regarding the initial status of units shall satisfy similar requirements set forth in this Chapter and all such notices, filings, challenges, designations or certificates shall have the same force and effect as if made pursuant to this subsection. (Added by Ord. 121-90, App. 4/12/90)

SEC. 41.7. STATEMENTS OF EXEMPTION; APPLICABILITY OF THIS CHAPTER. (a) **Statement of Exemption Based on Inapplicability of This Chapter.** Any hotel claiming that this Chapter does not apply, under the provisions of Sections 41.5(a) through 41.5(d), shall file a statement of exemption specifying the basis for the exemption. Any hotel claiming exemption under the provisions of Sections 41.5(b) through 41.5(d) shall also state the total number of guest rooms and the number of residential hotel units with monthly rent over \$1,000 per month.

(b) **Claim of Exemption Based on Low-Income Housing.** To qualify for a claim of exemption based on low-income housing, the units to be rehabilitated meet the following requirements:

(1) A claim for this exemption has been filed and the requisite fees paid to the Bureau of Building Inspection no later than 60 calendar days after the effective date of this ordinance;

(2) With the exception of ground floor commercial space, the entire building must be completely occupied as low-income housing;

(3) The Superintendent of the Bureau of Building Inspection finds that the proposed elimination of a unit is necessary to comply with Building Code and Housing Code requirements; and

(4) Alternate guest rooms are made available within the building to the displaced permanent residents; or

(5) In those circumstances where it is necessary to relocate a permanent resident off site, the permanent resident shall receive the actual moving expenses and the difference between the rent at the time of relocation and the rent of the temporary housing during the period of rehabilitation.

(6) The owner or operator and successors in interest shall continue to maintain all units in the rehabilitated hotel as low-income housing for 25 years. A deed restriction on such use shall be submitted to the City Attorney's Office for approval. An approved copy of the deed restriction shall be forwarded to the Superintendent of the Bureau of Building Inspection and the original shall be filed with the Recorder by the owner or operator.

(c) **Claim of Exemption Based on Partially Completed Conversion.** A claim of

exemption based on partially completed conversion shall not be approved until and unless owner or operator shows that all of the following requirements are met:

(1) An application for partially completed conversion was filed no later than 60 calendar days after the effective date of this ordinance;

(2) The owner or operator has commenced work on extensive Capital Improvements and Rehabilitation Work prior to November 23, 1979, as defined in Section 37.2 of the San Francisco Administrative Code (the San Francisco Rent Stabilization and Arbitration Ordinance) and has completed such work on at least 35 percent of the units intended to be converted or has expended 40 percent of the total sum budgeted for said work;

(3) The owner or operator or previous owner or operator shall have clearly demonstrated his/her intention to convert all of the residential units in the subject building to tourist units as of November 23, 1979. Satisfactory evidence of intention to convert may be demonstrated by the following factors, including but not limited to:

(A) Whether an architect has been engaged to prepare plans and specifications; or

(B) Whether applications for construction work have been received; or

(C) Whether applications for the necessary permits have been submitted to all relevant city departments; or

(D) Whether a building permit has been issued.

(4) Each permanent resident displaced by the conversion is offered relocation assistance as set forth in Section 41.17(b) below; and

(5) For each vacant residential unit converted, but not occupied by a permanent resident, a sum of \$250 per unit not to exceed a total of \$10,000 shall be deposited in the San Francisco Residential Hotel Preservation Account of the Repair and Demolition Fund established pursuant to Section 203.1 of the San Francisco Building Code (being Chapter 1, Article 2, Part II of the San Francisco Municipal Code) to be used exclusively for the repair, purchase and rehabilitation of residential hotel units by agencies of the City and County of San Francisco and to be administered by the Department of Public Works.

(d) Consistent with Planning Code Section 183, any unit deemed to be a tourist unit which has remained continuously vacant for three years following the zoning change in a zoning district not allowing tourist hotels shall lose its nonconforming status, and may be opened only for residential hotel or group housing uses. (Added by Ord. 121-90, App. 4/12/90)

SEC. 41.8. REQUIREMENTS FOR NONPROFIT ORGANIZATIONS. (a) **Initial Unit Usage Report.** Within 90 days of the adoption of this amended Chapter, the Bureau of Building Inspection shall notify all nonprofit organizations operating hotels that the nonprofit organization must comply with the Initial Status Determination provisions of Section 41.6 herein.

(b) **Annual Unit Usage Report.** All nonprofit organizations operating hotels with residential units shall comply with the provisions of Section 41.10 herein in the event that the status of the units in the hotel changes from the designation contained in the Initial Unit Usage Report.

(c) **One-for-one Replacement.** If a nonprofit organization seeks to demolish residential units or remove residential units from housing use, or sells or otherwise

transfers the building containing residential use, it shall comply with the provisions of Section 41.13 of this Chapter.

(d) **Applicability of this Chapter.** This chapter shall not apply to a hotel which has a certificate of use for all residential units but contained no permanent residents on September 23, 1979, provided that the hotel is owned, leased or operated by a nonprofit organization at the time this exemption is sought. The owner, operator or lessee of such a hotel must file with the Superintendent evidence to support such exemption. If the exemption is approved, the Superintendent shall issue a certificate of use designating all the hotel's units as tourist units; provided, however, that the certificate shall not be issued until the hotel owner, operator or lessee has paid any penalties imposed under Section 41.6(e) or Section 41.10(f) or (g), or released any liens imposed under Section 41.20(d). (Added by Ord. 121-90, App. 4/12/90)

SEC. 41.9. RECORDS OF USE. (a) **Daily Log.** Following the effective date of this Chapter each residential hotel shall maintain a daily log containing the status of each room, whether it is occupied or vacant, whether it is used as a residential unit or tourist unit and the name under which the occupant is registered. Each hotel shall also maintain copies of rent receipts showing the amount and period paid for. The daily log shall be available for inspection pursuant to the provision of Section 41.11(c) of this Chapter upon demand by the Superintendent of the Bureau of Building Inspection or the Superintendent's designee between the hours of 9 a.m. and 5 p.m., Monday through Friday unless the Superintendent of the Bureau of Building Inspection and the City Attorney reasonably believe that further enforcement efforts are necessary for specified residential hotels, in which case the Bureau of Building Inspection shall notify the hotel owner or operator that the daily logs shall be available for inspection between the hours of 9 a.m. and 7 p.m.

(b) **Weekly Report.** Following the initial determination, an owner or operator of residential units shall post on each Monday before 12 noon the following information:

(1) The number of tourist units to which the owner or operator is currently entitled and the date the certificate of use was last issued;

(2) The number of guest rooms which were used as tourist units each day of the preceding week. Evidence of compliance with requirements imposed hereunder shall be preserved by the owner or operator for a period of not less than two years after each posting is required to be made. The owner or operator shall permit the Superintendent of the Bureau of Building Inspection or his designee to inspect the hotel records and other supporting evidence to determine the accuracy of the information posted. (Added by Ord. 121-90, App. 4/12/90)

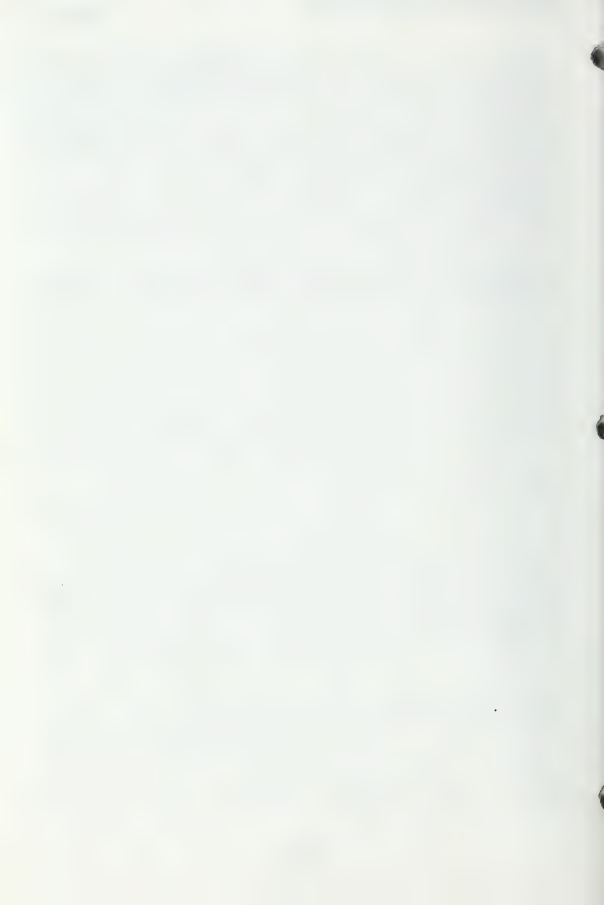
SEC. 41.10. ANNUAL UNIT USAGE REPORT. (a) **Filing.** On November 1st of each year every hotel owner or operator subject to this Chapter shall file with the Bureau of Building Inspection an Annual Unit Usage Report containing the following information:

(1) The total number of units in the hotel as of October 15th of the year of filing;

(2) The number of residential and tourist units as of October 15th of the year of filing;

- (7) The current rental rates for each residential unit to be converted; and
- (8) The length of tenancy of the permanent residents affected by the proposed conversion; and
- (9) A statement regarding how one-for-one replacement of the units to be converted will be accomplished, including the proposed location of replacement housing if replacement is to be provided off-site; and
- (10) A declaration under penalty of perjury from the owner or operator stating that he has complied with the provisions of Section 41.14(b) below and his filing of a permit to convert. On the same date of the filing of the application, a notice that an application to convert has been filed shall be posted until a decision is made on the application to convert. (Amended by Ord. 400-83, App. 7/21/83)

SEC. 41.10. ONE-FOR-ONE REPLACEMENT. (a) Prior to the issuance of a permit to convert, the owner or operator shall provide one-for-one replacement of the units to be converted by one of the following methods:



(3) The number of vacant residential units as of October 15th of the year of filing; if more than 50 percent of the units are vacant, explain why;

(4) The average rent for the residential hotel units as of October 15th of the year of filing;

(5) The number of residential units rented by week or month as of October 15th of the year of filing; and

(6) The designation by room number and location of the residential units and tourist units as of October 15th of the year of filing. Owner or operator shall maintain such designated units as tourist or residential units for the following year unless owner or operator notifies in writing the Bureau of Building Inspection of a redesignation of units; owner or operator may redesignate units throughout the year provided they notify the Bureau of Building Inspection in writing by the next business day following such redesignation and maintain the proper number of residential and tourist units at all times. The purpose of this provision is to simplify enforcement efforts while providing owner or operator with reasonable and sufficient flexibility in designation and renting of rooms;

(7) The nature of services provided to the permanent residents and whether there has been an increase or decrease in the services so provided;

(8) A copy of the Daily Log, showing the number of units which are residential, tourist or vacant on October 1st, February 1st, May 1st and August 1st of the year of filing.

(b) **Notice of Annual Unit Usage Report.** On the day of filing, the owner or operator shall post a notice that a copy of the Annual Unit Usage Report submitted to the Bureau of Building Inspection is available for inspection between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday, which notice shall remain posted for 30 days.

(c) **Extension of Time for Filing.** Upon application by an owner or operator and upon showing good cause therefor, the Superintendent of the Bureau of Building Inspection may grant one extension of time not to exceed 30 days for said filing.

(d) **Certificate of Annual Unit Usage Report.** After receipt of a completed Annual Unit Usage Report, the Bureau of Building Inspection shall issue a certified acknowledgement of receipt.

(e) **Renewal of Hotel License and Issuance of New Certificate of Use.** As of the effective date of this Chapter, no hotel license may be issued to any owner or operator of a hotel unless the owner or operator presents with his/her license application a certified acknowledgment of receipt from the Bureau of Building Inspection of the Annual Unit Usage Report for the upcoming year.

(f) **Insufficient Filing; Penalties.** The Superintendent of the Bureau of Building Inspection authorized to assess a penalty as set forth below for insufficient filing, with interest on the penalty accruing at the rate of one and one-half percent per full month, compounded monthly from the date the penalty is due as stated in the Superintendent's written notification below.

If the Superintendent or the Superintendent's designee determines that additional information is needed to make a determination, he shall send both the owner and operator a written request to furnish such information within 15 calendar days of the mailing of the written request. The letter shall state that if the requested information is not furnished in the time required, the residential and tourist units

shall be presumed to be unchanged from the previous year and that the Superintendent shall impose a \$500 penalty for failure to furnish the additional information within the 15-day period. If the Superintendent does not timely receive the information, the Superintendent shall notify both the owner and operator, by mail, that the Superintendent is imposing a \$500 penalty which must be paid within 30 days of the mailing of the notification, and that interest on the penalty shall accrue from the expiration of the 30 days at the rate of one and one-half percent per full month, compounded monthly. The written notification shall state that if the penalty is not paid, a lien to secure the amount of the penalty, plus the accrued interest, will be recorded against the real property pursuant to the provisions of Section 41.20(d) of this Chapter.

(g) **Failure to File Annual Unit Usage Report; Penalties.** The Superintendent of the Bureau of Building Inspection is authorized to assess penalties as set forth below for failure to file an Annual Unit Usage Report, with interest on penalties accruing at the rate of one and one-half percent per full month, compounded monthly from the date the penalty is due as stated in the Superintendent's notification below.

If the owner or operator fails to file an Annual Unit Usage Report, the Superintendent or the Superintendent's designee shall notify the owner and operator by registered or certified mail and shall post a notice informing the owner and operator that unless submission of the Annual Unit Usage Report and application for renewal of the hotel license is made within 15 calendar days of the mailing of the letter, the residential and tourist units shall be presumed to be unchanged from the previous year, and the Superintendent shall impose a penalty of \$300 per month of each month the annual report is not filed. If the Superintendent does not receive the report the Superintendent shall notify both the owner and operator, by mail that the Superintendent is imposing the appropriate penalty, as prorated, which must be paid within 30 days of the mailing of the notification and that interest on the penalty shall accrue from the expiration of the 30 days at the rate of one and one-half percent per full month, compounded monthly. The written notification shall state that if the penalty is not paid, a lien to secure the amount of the penalty, plus the accrued interest, will be recorded against the real property pursuant to the provisions of Section 41.20(d) of this Chapter.

(h) **Appeal of Annual Usage Determination.** An owner or operator may appeal the annual unit usage determination by the Superintendent of the Bureau of Building Inspection provided that there was no challenge pursuant to the provisions of subsection (i) below, and further provided that an appeal is filed within 20 calendar days from the date of annual unit usage determination. If an appeal is filed, a copy of the notice of appeal shall be posted by the owner or operator and a hearing pursuant to the provisions of Section 41.11(b) shall be scheduled.

(i) **Challenge; Standing; Statute of Limitation.** Any interested party may file a challenge to the information contained in the annual unit usage report filed by the owner or operator provided that such a challenge is in writing and is submitted within 30 calendar days from the date the report to the Bureau of Building Inspection is filed. Upon receipt of a challenge, a hearing pursuant to the provisions of Section 41.11(b) shall be scheduled. The owner or operator shall have the burden of proving by a preponderance of evidence that the information filed is correct. (Added by Ord. 121-90, App. 4/12/90)

SEC. 41.11. ADMINISTRATION. (a) **Fees.** The owner or operator shall pay the following filing fees to the Bureau of Building Inspection to cover its costs of investigating and reporting on eligibility. See Section 333.2, Hotel Conversion Fee Schedule, Part II, Chapter 1 of the San Francisco Municipal Code (Building Code) for the applicable fees. The party that brings an unsuccessful challenge to a report pursuant to this Article shall be liable for the change in Section 333.2, Hotel Conversion Fee Schedule. Unsuccessful Challenge, Part II, Chapter 1 of the San Francisco Municipal Code (Building Code). Fees shall be waived for an individual who files an affidavit under penalty of perjury stating that he or she is an indigent person who cannot pay the filing fee without using money needed for the necessities of life.

**SEE SAN FRANCISCO MUNICIPAL CODE (BUILDING CODE)
SECTION 333.2 HOTEL CONVERSION FEE SCHEDULE**

(b) **Hearing.** (1) **Notice of Hearing.** Whenever a hearing is required or requested in this Chapter, the Superintendent of the Bureau of Building Inspection shall, within 45 calendar days, notify the owner or operator of the date, time, place and nature of the hearing by registered or certified mail. The Superintendent of the Bureau of Building Inspection shall appoint a hearing officer. Notice of such a hearing shall be posted by the Bureau of Building Inspection. The owner or operator shall state under oath at the hearing that the notice remained posted for at least 10 calendar days prior to the hearing. Said notice shall state that all permanent residents residing in the hotel may appear and testify at the public hearing, provided that the Bureau of Building Inspection is notified of such an intent 72 hours prior to the hearing date.

(2) **Pre-hearing Submission.** No less than three working days prior to any hearing, parties to the hearing shall submit written information to the Bureau of Building Inspection including, but not limited to, the following: the request or complaint, the statement of issues to be determined by the Hearing Officer; and a statement of the evidence upon which the request or complaint is based.

(3) **Hearing Procedure.** If more than one hearing for the same hotel is required, the Superintendent of the Bureau of Building Inspection shall consolidate all of the appeals and challenges into one hearing; however, if a civil action has been filed pursuant to the provisions of Section 41.20(e) of the Chapter, all hearings on administrative complaints of unlawful conversions involving the same hotel shall be abated until such time as final judgment has been entered in the civil action; an interested party may file a complaint in intervention. The hearing shall be tape recorded. Any party to the appeal may, at his/her own expense, cause the hearing to be recorded by a certified court reporter. The hearing officer is empowered to issue subpoenas upon application of the parties seven calendar days prior to the date of the hearing. During the hearing, evidence and testimony may be presented to the hearing officer. Parties to the hearing may be represented by counsel and have the right to cross-examine witnesses. All testimony shall be given under oath. Written decision and findings shall be rendered by the hearing officer within twenty working days of the hearing. Copies of the findings and decision shall be served upon the parties to the hearing by registered or certified mail. A notice that a copy of the findings and decisions is available for inspection between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday shall be posted by the owner or operator.

(4) **Administrative Review.** Unless otherwise expressly provided in this Chapter, any decision of the hearing officer shall be final unless a valid written appeal is filed with the Board of Permit Appeals within 15 days following the date of the hearing officer's written determination. Such an appeal may be taken by any interested party as defined by Section 41.4 (g) herein.

(c) **Inspection.** The Superintendent of the Bureau of Building Inspection shall conduct, from time to time, on-site inspections of the daily logs, other supporting documents and units listed as vacant in the daily logs to determine if owner or operator has complied with the provisions of this Chapter. In addition, the Superintendent of the Bureau of Building Inspection or the Superintendent's designee shall conduct such an inspection as soon as practicable upon the request of a permanent resident of the hotel. If upon such an inspection, the Superintendent or the Superintendent's designee determines that an apparent violation of the provisions of this Chapter has occurred, he/she shall post a notice of apparent violation informing the permanent residents of the hotel thereof or shall take action as set forth in Section 41.11(d) and (e) below. This notice shall remain posted until the Superintendent of the Bureau of Building Inspection, or the Superintendent's designee, determines that the hotel is no longer in violation of the provisions of this Chapter.

(d) **Criminal Penalties for Violations.** Any person or entity wilfully failing to maintain daily logs as provided in Sections 41.9(a) and (b) of this Chapter, or failing to post materials as provided in Sections 41.6(a), (c) and (f), 41.9(b), 41.10(b), (g) and (h), 41.11(b) (3), 41.12(b)(10) and 41.18(b) and (c) of this Chapter or wilfully providing false information in the daily logs shall be guilty of an infraction for the first such violation or a misdemeanor for any subsequent violation, and the complaint charging such violation shall specify whether the violation charged is a misdemeanor or an infraction.

If charged as an infraction, the penalty upon conviction therefor shall be not less than \$100 or more than \$500.

If charged as a misdemeanor, the penalty upon conviction therefor shall be a fine of not less than \$500 or more than \$1,000 or imprisonment in the county jail, not exceeding six months, or both fine and imprisonment.

Every day such violation shall continue shall be considered as a new offense.

For purposes of Sections 41.11(d) and (e), violation shall include, but not limited to, intentional disobedience, omission, failure or refusal to comply with any requirement imposed by the aforementioned Sections or with any notice or order of the Superintendent or the Director of Public Works regarding a violation of this Chapter.

(e) **False Information Misdemeanor.** It shall be unlawful for an owner or operator to wilfully provide false information to the Superintendent of the Bureau of Building Inspection or the Superintendent's designees. Any owner or operator who files false information shall be guilty of a misdemeanor. Conviction of a misdemeanor hereunder shall be punishable by a fine of not more than \$500 or by imprisonment in the County Jail for a period not to exceed six months, or by both.

(f) The Superintendent of the Bureau of Building Inspection may impose a penalty of \$250 per violation for failure to maintain daily logs as required under Section 41.9 above and for failure to post materials as required under Sections 41.6(a), (c) and (f), 41.9(b), 41.10(b), (g) and (h), 41.11(b) (3), 41.12(b)(10), and 41.18(b) and (c). In order to impose such penalties, the Superintendent shall notify

both the owner and operator by certified mail that the Superintendent is imposing the penalty or penalties, which must be paid within 30 days of the mailing of the notification. The written notification shall state that if the penalty is not paid, a lien to secure the amount of the penalty will be recorded against the real property pursuant to the provisions of Section 41.20(d) of this Chapter.

(g) **Costs of Enforcement.** The proceeds from the filing fees and civil fines assessed shall be used exclusively to cover the costs of investigation and enforcement of this ordinance by the City and County of San Francisco. The Superintendent of the Bureau of Building Inspection shall annually report these costs to the Board of Supervisors and recommend adjustments thereof.

(h) **Inspection of Records.** The Bureau of Building Inspection shall maintain a file for each residential hotel which shall contain copies of all applications, exemptions, permits, reports and decisions filed pursuant to the provisions of this Chapter. All documents maintained in said files, except for all tax returns and documents specifically exempted from the California Public Record Act, shall be made available for public inspection and copying.

(i) **Promulgation of Rules and Regulations.** The Superintendent of the Bureau of Building Inspection shall propose rules and regulations governing the appointment of an administrative officer and the administration and enforcement of this Chapter. After reasonable notice and opportunity to submit written comment are given, final rules and regulations shall be promulgated. (Added by Ord. 121-90, App. 4/12/90)

SEC. 41.12. PERMIT TO CONVERT. (a) Any owner or operator, or his/her authorized agent, of a residential hotel may apply for a permit to convert one or more residential units by submitting an application and the required fee to the Central Permit Bureau.

(b) The permit application shall contain the following information:

(1) The name and address of the building in which the conversions are proposed; and

(2) The names and addresses of all owners or operators of said building; and

(3) A description of the proposed conversion including the nature of the conversion, the total number of units in the building, their current uses; and

(4) The room numbers and locations of the units to be converted; and

(5) Preliminary drawings showing the existing floor plans and proposed floor plans; and

(6) A description of the improvements or changes proposed to be constructed or installed and the tentative schedule for start of construction; and

(7) The current rental rates for each residential unit to be converted; and

(8) The length of tenancy of the permanent residents affected by the proposed conversion; and

(9) A statement regarding how one-for-one replacement of the units to be converted will be accomplished, including the proposed location of replacement housing if replacement is to be provided off-site; and

(10) A declaration under penalty of perjury from the owner or operator stating that he/she has complied with the provisions of Section 41.14(b) below and his/her filing of a permit to convert. On the same date of the filing of the application, a notice that an application to convert has been filed shall be posted until a

decision is made on the application to convert.

(c) Upon receipt of a completed application to convert or demolish, the Bureau of Building Inspection shall send the application to the Department of City Planning for review and shall mail notice of such application to interested community organizations and such other persons or organizations who have previously requested such notice in writing. The notice shall identify the hotel requesting the permit, the nature of the permit, the proposal to fulfill the replacement requirements of Section 41.13 herein, and the procedures for requesting a public hearing. Owner or operator shall post a notice informing permanent residents of such information.

(d) Any interested party may submit a written request within 15 days of the date notice is posted pursuant to subsection (c) above to the City Planning Commission to schedule and conduct a public hearing on the proposed conversion in order to solicit public opinion on whether to approve or deny a permit to convert or demolish residential units and to determine whether proposed replacement units are "comparable units" as defined in Section 41.4(b) herein. (Added by Ord. 121-90, App. 4/12/90)

SEC. 41.13. ONE-FOR-ONE REPLACEMENT. (a) Prior to the issuance of a permit to convert, the owner or operator shall provide one-for-one replacement of the units to be converted by one of the following methods:

(1) Construct or cause to be constructed a comparable unit to be made available at comparable rent to replace each of the units to be converted; or

(2) Cause to be brought back into the housing market a comparable unit from any building which was not subject to the provisions of this Chapter; or

(3) Construct or cause to be constructed or rehabilitated apartment units for elderly, disabled or low-income persons or households which may be provided at a ratio of less than one-to-one; or construct or cause to be constructed transitional housing which may include emergency housing. The construction of any replacement housing under this subsection shall be evaluated by the City Planning Commission in accordance with the provisions of Section 303 of the City Planning Code. A notice of said City Planning Commission hearing shall be posted by the owner or operator 10 calendar days before the hearing; or

(4) Pay to the City and County of San Francisco an amount equal to 80 percent of the cost of construction of an equal number of comparable units plus site acquisition cost. All such payments shall go into a San Francisco Residential Hotel Preservation Fund Account. The Department of Real Estate shall determine this amount based upon two independent appraisals; or

(5) Contribute to a public entity or nonprofit organization, who will use the funds to construct comparable units, an amount at least equal to 80 percent of the cost of construction of an equal number of comparable units plus site acquisition cost. The Department of Real Estate shall determine this amount based upon two independent appraisals. In addition to compliance with all relevant City ordinances and regulations, the public entity or nonprofit organization and the housing development proposal of such public entity or nonprofit organization shall be subject to approval by the Mayor's Office of Housing.

(A) Such contribution shall be paid to the approved public entity or nonprofit organization in installments from an escrow account supervised by the Mayor's

Office of Housing, upon application by such public entity or nonprofit organization to the Mayor's Office of Housing, for specified expenditures, including but not limited to site acquisition costs, architect's fees, and construction costs; such payment shall be approved by the Mayor's Office of Housing prior to release of funds.

(B) The permit to convert shall be issued by the City when owner or operator deposits the full amount of funds in an escrow account described in subsection 41.13(a)(5)(A) above, or provides other form of non-refundable security acceptable to the City Attorney and the Mayor's Office of Housing.

(C) In the event that the public entity or nonprofit organization is unable to complete construction of the replacement housing, any unpaid amounts shall be released to the City. All such funds shall go into a San Francisco Residential Hotel Preservation Fund Account.

(b) Any displaced permanent resident relocated to replacement units provided under Subdivision (a) above shall be deemed to have continued his occupancy in the converted unit for the purpose of administering Subsection (k) of Section 37.2, San Francisco Administrative Code (San Francisco Rent Stabilization and Arbitration Ordinance).

(c) Any replacement units shall continue to be subject to the provisions of this Chapter.

(d) In the event that a completed application for a permit to convert is filed by a hotel owner or operator no later than the effective date of this amended Chapter, and such hotel owner or operator elects to provide one-for-one replacement of the residential units pursuant to Section 41.13(a)(4) or Section 41.13(a)(5) herein, the hotel owner or operator shall be obligated to pay to the City and County of San Francisco an amount equal to 40 percent of the cost of construction of an equal number of comparable units plus site acquisition cost, provided that such hotel owner or operator shall pay such amount to the City or provide to the City security for such payment in a form satisfactory to the Mayor's Office of Housing and the City Attorney within 90 days following the date that the Bureau of Building Inspection determines that the application for a permit to convert is complete, or, if necessary, 10 days following final action, including any appeals, by the Planning Commission or appellate body, or 10 days following the Department of Real Estate's determination of such amount, whichever occurs latest. In the event that a hotel owner or operator elects to provide one-for-one replacement pursuant to Section 41.13(a)(2) or (a)(5) herein and the Mayor's Office of Housing has not approved a proposal or organization thereunder prior to the effective date of this amended Chapter, the Bureau of Building Inspection shall not reject such application as incomplete for such lack of information. If a hotel owner or operator applies for a permit to convert using the one-for-one replacement option described in 41.13(a)(2) or (a)(5) and the Mayor's Office of Housing does not approve a housing development proposal or a nonprofit organization, or such project fails to progress through no fault of the owner or operator, such applicant shall be permitted to provide one-for-one replacement pursuant to Section 41.13(a)(4) at 40 percent of the cost of construction of an equal number of comparable units plus site acquisition costs, provided that such applicant files the application under Section 41.13(a)(2) or (a)(5) no later than the effective date of this amended Chapter. The hotel owner or operator shall identify such housing proposal or nonprofit organiza-

tion within 180 days of the effective date of this amended Chapter. In the event that the Mayor's Office of Housing finds that the permit applicant has acted in good faith in seeking a project, the Mayor's Office of Housing may exercise its reasonable discretion to extend the provisions of this subsection for an additional 180 days. In the event that a project approved by the Mayor's Office of Housing fails to move forward through no fault of the permit applicant, the applicant may substitute another project within six months of being notified by the Mayor's Office of Housing of a failure of the prior project to move forward. The Mayor's Office of Housing may extend this period for an additional 180 days to identify such new proposal. The City shall issue a permit to convert under this subsection 41.13(d) only if the hotel owner or operator has either paid the 40-percent in lieu fee to the City pursuant to Section 41.13(a)(4) herein or complied with the requirements of Sections 41.13(a)(2) or (a)(5) as applicable. In the event that a hotel owner or operator has not complied with any of these requirements and the City has not issued a permit to convert or if the Mayor's Office of Housing has not found the hotel owner or operator has acted in good faith in seeking a project pursuant to subsections 41.13(a)(2) or (a)(5) or this subsection, no later than 180 days following the effective date of this amended Chapter, or such later date as herein provided, this Subsection 41.13(d) shall no longer be applicable, City shall refund any amounts deposited as security pursuant to the terms herein, and such hotel owner or operator shall comply with all applicable terms of this Chapter.

(e) When a residential unit is approved for conversion to another use pursuant to the provisions of Subsection 41.13(a)(2), (a)(4) or (a)(5) above, such unit shall not be deemed to be reconverted into a residential unit regardless of any interim uses after payment as set forth in Subsections 41.13(a)(2), (a)(4) or (a)(5). (Added by Ord. 121-90, App. 4/12/90)

SEC. 41.14. MANDATORY DENIAL OF PERMIT TO CONVERT. A permit to convert shall be denied by Superintendent of the Bureau or Building Inspection if:

(a) The requirements of Sections 41.12 or 41.13, above, have not been fully complied with;

(b) The application is incomplete or contains incorrect information;

(c) An applicant has committed unlawful action as defined in this Chapter within 12 months previous to the issuance of a permit to convert;

(d) The proposed conversion or the use to which the unit would be converted is not permitted by the City Planning Code. (Added by Ord. 121-90, App. 4/12/90)

SEC. 41.15. APPROVAL AND ISSUANCE OF PERMIT TO CONVERT. The Superintendent of the Bureau of Building Inspection shall issue a permit to convert, provided that:

(a) The requirements of Section 41.12 have been met;

(b) Evidence of compliance with the requirements of Section 41.13 has been submitted. Satisfactory evidence of compliance may be:

(1) A certification of final completion or permit of occupancy on the replacement housing; or

(2) A receipt from the City Treasurer that the in-lieu payment determined by the Department of Real Estate has been received; and

(3) Evidence of compliance with the requirements of Section 41.17 herein.

(c) The proposed conversion or the use to which the unit would be converted is permitted by the City Planning Code.

(d) Concurrent with the issuance of a permit to convert, the Superintendent of the Bureau of Building Inspection shall issue a new certificate of use which shall state the newly certified number of residential units and tourist units. (Added by Ord. 121-90, App. 4/12/90)

SEC. 41.16. APPEAL OF DENIAL OR APPROVAL OF PERMIT TO CONVERT. (a) Denial or approval of a permit application may be appealed to the Board of Permit Appeals, pursuant to Sections 8 et seq. Part III of the San Francisco Municipal Code.

(b) The owner or operator shall submit a statement under the penalty of perjury that he has notified all the affected permanent residents of his appeal and of the date, time and place of the hearing before the Board of Permit Appeals, seven calendar days prior to the scheduled hearing.

(c) The appellant shall have the burden of proving that the determination of the Superintendent of the Bureau of Building Inspection is invalid. (Added by Ord. 121-90, App. 4/12/90)

SEC. 41.17. RIGHTS OF PERMANENT RESIDENTS. (a) To apply for a permit to convert, an owner or operator of the hotel shall do the following:

(1) Any interested community organization and all permanent residents residing in said building at the time of an application for a permit to convert and thereafter shall be timely informed of all public hearings and administrative decisions concerning said conversion; said notice shall be posted by the owner or operator;

(2) A permanent resident has the right to occupy his/her residential unit for 60 calendar days from the issuance of the permit to convert;

(3) Owner or operator shall offer a permanent resident available comparable units in the building, or to any replacement housing provided pursuant to Subsection 41.13(a)(1) or (2);

(4) All displaced permanent residents are entitled to relocation assistance as provided for in subsection (b) below;

(5) Seven calendar days prior to the filing of an application for a permit to convert, the owner or operator shall notify, in writing, by personal service, or registered or certified mail, every permanent resident affected by the proposed conversion of his/her intent to convert designated units;

(6) The notification required by Subsection (5) above shall also inform the permanent residents of their rights under Subsections (1) through (4) above.

(b) **Relocation Assistance.**

(1) A permanent resident, who as a result of the conversion of his/her unit must relocate off site, shall be reimbursed the actual moving expenses not to exceed \$300 or may consent to be moved by the owner or operator.

(2) A displaced permanent resident shall have the right of first refusal for the rental or leasing of replacement units, if any, provided pursuant to the provisions of Sections 41.13(a)(1) or 41.13(a)(2).

(3) A permanent resident displaced by partially completed conversion under the provisions of Section 41.7(c) shall be entitled to a displacement allowance of \$1,000 per displaced person. (Added by Ord. 121-90, App. 4/12/90)

SEC. 41.18. DEMOLITION. (a) This section shall apply only to demolition of residential hotel buildings pursuant to an abatement order of the Director of Public Works or the Superior Court of the State of California, or demolition necessitated by major fires, natural causes or accidents where the cost of repair exceeds 50 percent of the replacement value of the building.

(b) Upon submission of an application for a demolition permit, the owner or operator shall post a copy of said application.

(c) Upon notification by the Central Permit Bureau that a demolition permit has been issued, the owner or operator shall post a notice explaining the procedure for challenging the issuance of the demolition permit to the Board of Permit Appeals.

(d) When issued a demolition permit, the owner or operator shall provide a written notice of the demolition within 10 calendar days of issuance of the permit to each residential permanent resident. Each permanent resident shall be notified in writing of his/her rights to relocation assistance and to occupy the same unit for a period of up to 60 days after issuance of the demolition permit.

(e) The subsequent issuance of a building permit for construction on the demolished site shall be conditioned on the owner or operator's agreement to replace, on a one-for-one basis, the demolished residential units as required by the provisions of Section 41.13. No building permit shall be issued until owner or operator complies with the provisions of Section 41.13.

(f) The conditions for issuance of a demolition permit set forth in subsection (e) above shall be recorded by the owner at the time of issuance of the demolition permit in order to provide notice of said conditions to all subsequent purchasers and interested parties. (Added by Ord. 121-90, App. 4/12/90)

SEC. 41.19. TEMPORARY CHANGE OF OCCUPANCY. (a) **Temporary Change of Occupancy.**

(1) A tourist unit may be rented to a permanent resident, until voluntary vacation of that unit by the permanent resident or upon eviction for cause, without changing the legal status of that unit as a tourist unit.

(2) A permanent resident may be relocated for up to 21 days to another unit in the residential hotel for purposes of complying with the Building Code requirements imposed by the UMB Seismic Retrofit Ordinance, Ordinance No. 219-92, without changing the designation of the unit.

(3) A residential unit which is vacant at any time during the period commencing on May 1st and ending on September 30th annually may be rented as a tourist unit, provided that (i) the residential unit was vacant due to voluntary vacation of a permanent resident or was vacant due to lawful eviction for cause after the permanent resident was accorded all the rights guaranteed by State and local laws during his/her tenancy, (ii) the daily log shows that the residential unit was legally occupied for at least 50 percent of the period commencing on October 1st and ending on April 30th of the previous year, unless owner or operator can produce evidence to the Bureau of Building Inspection explaining such vacancy to the satisfaction of the Bureau of Building Inspection, including but not limited to such factors as repair or rehabilitation

work performed in the unit or good-faith efforts to rent the unit at fair market value; and (iii) the residential unit shall immediately revert to residential use upon application of a prospective permanent resident.

25-percent Limit.

However, at no time during the period commencing on May 1st and ending on September 30th may an owner or operator rent for nonresidential use or tourist use more than 25 percent of the hotel's total residential units unless the owner or operator can demonstrate that (i) the requirements of 41.19(a)(3) above are met, (ii) good-faith efforts were made to rent such units to prospective permanent residents at fair market value for comparable units and that such efforts failed and (iii) the owner or operator has not committed unlawful action as defined in this Chapter within 12 months prior to this request. Owners or operators who seek to exceed this limit must request a hearing pursuant to Section 41.11(b) above and the decision whether to permit owners or operators to exceed this limit is within the discretion of the hearing officer.

(b) **Special Requirements for Hearings on Tourist Season Rental of Residential Units.** Where an owner or operator seeks a hearing in order to exceed the limit on tourist season rental of vacant residential units pursuant to Section 41.19(a)(3), the requirements of 41.11(b)(1), (b)(2) and (b)(3) above shall be applicable except as specifically modified or enlarged herein:

(1) **Notice of Hearing.** Notice of hearing as provided in Section 41.11(b)(1) above shall be given within 15 calendar days. The notice requirements for the owner or operator shall also be applicable to any interested party who has submitted a prior written request to the Superintendent to be notified of such hearings.

(2) **Time of Hearing.** The hearing shall be held within 30 days of the submission of the owner or operator's written request for hearing.

(3) **Burden of Proof.** Burden of proof is on the owner or operator.

(4) **Interested Party.** Any interested party shall be deemed a "party to the hearing" for purposes of Section 41.11(b)(1).

(5) **Determination of the Hearing Officer.** Based upon the evidence presented at the hearing, conducted in accordance with Section 41.11(b)(3) above, the hearing officer shall make findings as to (i) whether the residential unit was vacant due to voluntary vacation of a permanent resident or was vacant due to lawful eviction, (ii) whether the residential unit was occupied for at least 50 percent of the period commencing on October 1st and ending on April 30th of the previous year, (iii) whether the owner or operator has committed unlawful action under this Chapter within 12 months prior to this request, and (iv) whether the owner or operator made good-faith efforts to rent vacant residential units to prospective permanent residents at no more than fair market value for a comparable unit during the tourist season and yet was unable to secure such rentals. Good-faith efforts shall include, but not be limited to, advertising the availability of the residential units to the public. In determining fair market value of the residential units, the hearing officer shall consider any data on rental of comparable units, as defined in Section 41.4(b) herein.

(6) **Decision.** The hearing officer shall render a written decision and findings within 10 working days of the hearing.

(7) **Effect of Decision.** The hearing officer's decision shall remain in effect for the tourist season for which the owner or operator requested the hearing. If the owner or operator wishes to exceed the 25 percent limit during any subsequent tourist season,

a new written request for hearing must be submitted to the Superintendent of the Bureau of Building Inspection.

(8) **Construction.** The purpose of this Section 41.19(b) is to supplement or modify provisions of Section 41.11(b) (1) through (b)(3). Unless otherwise specifically modified, all provisions of Sections 41.11(b)(1) through (b)(3) are deemed applicable to hearings concerning the tourist season limitation on rental of vacant residential units.

(c) **Winter Rentals.** A residential unit which is vacant at any time during the period commencing on October 1st and ending on April 30th annually may be rented as a tourist unit, provided that:

(1) Such owner or operator has been permitted to rent residential units as tourist units in excess of 25 percent of the residential units pursuant to Section 41.19(a)(3) above;

(2) The owner or operator has not committed unlawful action as defined in this Chapter within 12 months prior to the time of this request;

(3) A residential hotel may not rent in excess of 33 percent of the total number of residential units or 20 residential units, whichever is less, pursuant to this subsection;

(4) Applicants to temporarily convert residential units pursuant to this subsection shall submit applications to the Department of Public Works, in accordance with rules and regulations promulgated by the Department of Public Works;

(5) A maximum of 60 residential units may be approved per year to be rented as tourist units or nonresidential units pursuant to this Subsection 41.19(c). In the event that the number of such applications exceeds 60 residential units, the Department of Public Works shall establish a lottery system based on priority ranking where preference shall be accorded to residential hotel owners who have been eligible more frequently than other hotel owners for temporary conversion pursuant to Subsection 41.19(a)(3) above;

(6) Such nonresidential use is permitted by the zoning for such residential hotel; and

(7) No application for such temporary conversion shall be approved by the Department of Public Works to fill the unused portion of the 60 residential unit limitation for the previous year. (Added by Ord. 121-90, App. 4/12/90; amended by Ord. 219-92, App. 7/14/92)

SEC. 41.20. UNLAWFUL CONVERSION; REMEDIES; FINES. (a) **Unlawful Actions.** It shall be unlawful to:

(1) Change the use of, or to eliminate a residential hotel unit or to demolish a residential hotel unit except pursuant to a lawful abatement order, without first obtaining a permit to convert in accordance with the provisions of this Chapter;

(2) Rent any residential unit for a term of tenancy less than seven days except as permitted by Section 41.19 of this Chapter;

(3) Offer for rent for nonresidential use or tourist use a residential unit except as permitted by this Chapter.

(b) **Hearing for Complaints of Unlawful Conversions.** Upon the filing of a complaint by an interested party that an unlawful conversion has occurred and payment of the required fee, the Superintendent of the Bureau of Building Inspection shall schedule a hearing pursuant to the provisions of Section 41.11(b). The complain-

ant shall bear the burden of proving that a unit has been unlawfully converted. The hearing officer shall consider, among others, the following factors in determining whether a conversion has occurred:

(1) Shortening of the term of an existing tenancy without the prior approval of the permanent resident;

(2) Reduction of the basic services provided to a residential unit intended to lead to conversion. For the purpose of this section, basic services are defined as access to common areas and facilities, food service, housekeeping services and security;

(3) Repeated failure to comply with order of the Bureau of Building Inspection or the Department of Public Health to correct code violations with intent to cause the permanent residents to voluntarily vacate the premises;

(4) Repeated citations by the Superintendent of the Bureau of Building Inspection or the Department of Public Health of code violations;

(5) Offer of the residential units for nonresidential use or tourist use except as permitted in this Chapter;

(6) Eviction or attempts to evict a permanent resident from a residential hotel on grounds other than those specified in Sections 37.9(a)(1) through 37.9(a)(8) of the San Francisco Administrative Code except where a permit to convert has been issued;

(7) Repeated posting by the Superintendent of the Bureau of Building Inspection of notices of apparent violations of this Chapter pursuant to Section 41.11(c) above.

(c) **Civil Penalties.** Where the hearing officer finds that an unlawful conversion has occurred, the Superintendent shall impose a civil penalty of three times the daily rate per day for each unlawfully converted unit from the day the complaint is filed until such time as the unit reverts to its authorized use. The daily rate shall be the rate unlawfully charged by the hotel owner or operator to the occupants of the unlawfully converted unit. The Superintendent may also impose penalties upon the owner or operator of the hotel to reimburse City or complainant for the costs of enforcement, including reasonable attorneys' fees, of this Chapter. The hearing officer's decision shall notify the parties of this penalty provision and shall state that the Superintendent of the Bureau of Building Inspection is authorized to impose the appropriate penalty by written notification to both the owner and operator, requesting payment within 30 days. If the penalty imposed is not paid, a lien to secure the amount of the penalty will be recorded against the real property pursuant to the provisions of Section 41.20(d) of this Chapter.

(d) **Lien Proceedings.**

(1) **Preparation of Delinquency Report.** If any penalty imposed pursuant to Sections 41.10(d), 41.10(f), 41.11(f) or 41.20(c) is not received within the required time period, the Superintendent of the Bureau of Building Inspection shall initiate proceedings to make the penalty, plus accrued interest, a special assessment lien against the real property regulated under this Chapter. The Superintendent shall prepare a delinquency report for the Board of Supervisors. For each delinquent account, the report shall contain the owner's name, the amount due, including interest, and a description of the real property. The report shall also indicate which of the delinquent accounts should be exempted from the lien procedure because of the small amounts involved, or because another debt collection procedure is more appropriate. The descriptions of the parcels shall be those used for the same parcels on the Assessor's map books for the current year.

(2) **Notice.** Five days prior to forwarding the delinquency report to the Board

of Supervisors, the Superintendent shall mail a copy of the report to any affected owner and shall post the report at the affected properties. Upon receipt of the report, the Board of Supervisors shall fix a time, date and place for hearing the report and any protest or objections thereto, and shall mail notice of the hearing to each owner of real property described in the report not less than 10 days prior to the date of hearing.

(3) **Hearing and Confirmation.** The Board of Supervisors shall hear the report with opportunity for any protests or objections of the owners of the real property liable to be assessed for delinquent accounts. The Board may make such revisions, corrections or modifications of the report as it may deem just, after which, by motion or resolution, it shall be confirmed. The Board's decision on the report on all protests or objections thereto shall be final and conclusive; provided, however, that any delinquent account may be removed from the report by payment in full at any time prior to confirmation of the report. The Clerk of the Board shall cause the confirmed report to be verified in form sufficient to meet recording requirements.

(4) **Collection of Assessment.** Upon confirmation of the report by the Board, the delinquent charges contained herein shall constitute a special assessment against the property listed in the report. Each such assessment shall be subordinate to all existing special liens previously imposed upon such property and paramount to all other liens except those for state, county and municipal taxes with which it shall be in parity. The lien shall continue until the assessment and all interest due and payable thereon are paid. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to said special assessment.

(5) **Recordation; Charges.** The Clerk of the Board shall cause the confirmed and verified report to be recorded in the County Recorder's Office within 10 days of its confirmation. The special assessment lien on each parcel of property described in said report shall carry additional charges for administrative expenses of \$100 or 10 percent of the amount of the unpaid balance, including interest, whichever is higher.

(6) **Filing with Controller and Tax Collector: Distribution of Proceeds.** After the report is recorded, the Clerk of the Board shall file a certified copy with the Controller and Tax Collector, whereupon it shall be the duty of said officers to add the amount of said assessment to the next regular bill for taxes levied against said parcel or parcels of land for municipal purposes, and thereafter said amount shall be collected at the same time and in the same manner as ordinary City and County taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided for property taxes of the City and County of San Francisco. Except for the release of lien recording fee authorized in Subsection (7) below, all sums collected by the Tax Collector pursuant to this section shall be held in trust by the Treasurer and distributed as provided in Section 41.8(e) of this Chapter.

(7) **Release of Lien; Recording Fee.** Upon payment to the Tax Collector of the special assessment, the Tax Collector shall cause a Release Lien to be recorded with the County Recorder, and from the sum collected pursuant to Subsection (6) above, shall pay to the County Recorder a recording fee of \$6.00.

(e) **Civil Action** An interested party may institute a civil proceeding for injunctive relief and damages. The Superintendent of the Bureau of Building Inspection may institute a civil proceeding for injunctive relief. Counsel for the

interested party shall notify the City Attorney's office of the City and County of San Francisco of any action filed pursuant to this section. In determining whether an unlawful conversion has occurred, the court may consider, among other factors, those enumerated in Section 41.20(b) of this Chapter. The interested party instituting a civil proceeding, or the City suing to enforce this Chapter, if prevailing parties, shall be entitled to the costs of enforcing this Chapter, including reasonable attorney's fees, pursuant to an order of the Court. (Added by Ord. 121-90, App. 4/12/90)

SEC. 41.21. ANNUAL REVIEW OF RESIDENTIAL HOTEL STATUS.

(a) The Bureau of Building Inspection shall prepare and submit to the Board of Supervisors an annual status report containing the following:

(1) Current data on the number of residential hotels and the number of residential units in each of the residential hotels in the City and County of San Francisco, including, to the extent feasible, information regarding rents, services provided, and violations of the City's codes;

(2) Current data on the number of residential hotel units converted pursuant to a permit to convert;

(3) Current data on the number of hotel units demolished or eliminated due to code abatement proceedings and fire;

(4) Current data on the number of residential hotel units illegally converted;

(5) Current data on the number of replacement housing units rehabilitated or constructed;

(6) A summary of the enforcement efforts by all City agencies responsible for the administration of this Chapter; and

(7) An evaluation of the workability and effectiveness of the permitted temporary change of occupancy procedures and winter rentals in Section 41.19 herein; and

(8) A report on expenditures from the San Francisco Residential Hotel Preservation Fund Account.

(b) The Economic and Social Policy Committee of the Board of Supervisors shall conduct a hearing on the annual report submitted by the Bureau of Building Inspection and shall recommend appropriate actions to be taken by the Board of Supervisors.

(c) The Bureau of Building Inspection should establish a San Francisco Residential Hotel Operators Advisory Committee composed of:

— 3 members nominated by the San Francisco Hotel Association (for-profit operators);

— 3 members nominated by the Golden Gate Hotel Association (for-profit operators);

— 2 members nominated by the Council of Community Housing Organizations (nonprofit hotel operators);

— Deputy Mayor for Housing.

The committee shall meet no less than once every three months to advise the Mayor's Office of Housing on matters including, but not limited to:

(1) Proposed revisions to this ordinance;

(2) Programs that various City agencies (i.e. Mayor's Office of Housing, Department of Social Services, etc.) should develop to assist the City's residential hotel operators;

(3) Any state or federal laws the City should support, oppose or seek to revise that impact residential hotel operators:

(4) Any new City, State or Federal programs the City shall encourage that would provide financial or technical support or assistance to San Francisco Residential Hotel Operators. (Added by Ord. 121-90, App. 4/12/90)

SEC. 41.22. CONSTRUCTION. (a) Nothing in this Chapter may be construed to supersede any other lawfully enacted ordinance of the City and County of San Francisco, except that definitions provided in this Chapter shall govern the enforcement of this Chapter.

(b) Clauses of this Chapter are declared to be severable and if any provision or clause of this Chapter or the application thereof is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions of this Chapter. (Added by Ord. 121-90, App. 4/12/90)

CHAPTER 41A**APARTMENT UNIT CONVERSION ORDINANCE**

- Sec. 41A.1. Title.
- Sec. 41A.2. Purpose.
- Sec. 41A.3. Findings.
- Sec. 41A.4. Definitions.
- Sec. 41A.5. Unlawful Conversion; Remedies.
- Sec. 41A.6. Report on Apartment Conversion.
- Sec. 41A.7. Construction.
- Sec. 41A.8. Procedures for Determining and Appealing Administrative Penalties.

SEC. 41A.1. TITLE. This chapter shall be known as the Apartment Unit Conversion Ordinance. (Added by Ord. 331-81, App. 6/26/81)

SEC. 41A.2. PURPOSE. It is the purpose of this ordinance to benefit the general public by minimizing adverse impacts on the housing supply and on persons and households of all income levels resulting from the loss of apartment units through their conversion to tourist and transient use. This is to be accomplished by regulating the conversion of apartment units to tourist and transient use, and through appropriate administrative and judicial remedies. (Added by Ord. 331-81, App. 6/26/81)

SEC. 41A.3. FINDINGS. The Board of Supervisors finds that:

(a) There is a severe shortage of decent, safe, sanitary and affordable rental housing in the City and County of San Francisco.

(b) The people of the City and County of San Francisco, cognizant of the housing shortage in San Francisco, on November 4, 1980, adopted a declaration of policy to increase the City and County's housing supply by 20,000 units.

(c) Many of the City and County's elderly, disabled and low-income persons and households reside in apartment units.

(d) As a result of the removal of apartment units from the rental housing market, a housing emergency exists within the City and County of San Francisco for its elderly, disabled and low-income households.

(e) The Board of Supervisors and the Mayor of the City and County of San Francisco recognized this housing emergency and enacted an ordinance which established a moratorium on the conversion of apartment units to tourist and transient use.

(f) The conversion of apartment units to tourist and transient use impacts especially on persons seeking housing in the low to moderate price range.

(g) It is in the public interest that conversion of apartment units be regulated and that remedies be provided when unlawful conversion has occurred, in order to protect the resident tenants and to conserve the limited housing resources. (Added by Ord. 331-81, App. 6/26/81)

SEC. 41A.4. DEFINITIONS. (a) **Apartment Unit.** Room or rooms in any building, or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of four or more

households living independently of each other in dwelling units as defined in the San Francisco Housing Code, provided that the apartment unit was occupied by a permanent resident on or after February 8, 1981. It is presumed that an apartment unit was occupied by a permanent resident on or after February 8, 1981, and the owner has the burden of proof to show that an apartment unit is not subject to this Chapter.

(b) **Residential Use.** Any use for occupancy as a dwelling unit by a permanent resident.

(c) **Tourist or Transient Use.** Use of an apartment unit for occupancy on less than a 30-day term of tenancy.

(d) **Permanent Resident.** A person who occupies an apartment unit for at least 60 consecutive days with intent to establish that unit as his or her principal place of residence.

(e) **Conversion or Convert.** The change of the use or to rent an apartment unit from residential use to tourist or transient use.

(f) **Owner.** Owner includes any person who is the owner of record of the real property. Owner includes a lessee where an interested party alleges that a lessee is offering an apartment unit for tourist or transient use.

(g) **Interested Party.** A permanent resident of the building in which the tourist or transient use is alleged to occur or the City and County of San Francisco.

(h) **Director.** The Director of the Department of Building Inspection. (Added by Ord. 331-81, App. 6/26/81; amended by Ord. 74-98, App. 3/16/98)

SEC. 41A.5. UNLAWFUL CONVERSION; REMEDIES. (a) **Unlawful Actions.** It shall be unlawful for any owner to offer an apartment unit for rent for tourist or transient use.

(b) **Determination of Violation.** Upon the filing of a complaint by a permanent resident that an unlawful conversion has occurred, the Director shall take reasonable steps necessary to determine the validity of the complaint. The Director may independently determine whether an owner may be renting an apartment unit for tourist or transient use as defined in this Chapter. To determine if there is a violation of this Chapter, the Director may initiate an investigation of the subject property. This investigation may include, but is not limited to, an inspection of the subject property and a request for any pertinent information from the owner, such as leases or other documents.

(c) **Civil Action.** Except as provided by Subsection (1) below, any interested party may institute proceedings for injunctive and monetary relief for violation of this Chapter. In addition, the owner may be liable for civil penalties of not more than \$1,000 per day for the period of the unlawful rental. If the interested party is the prevailing party, such party shall be entitled to the costs of enforcing this Chapter, including reasonable attorneys' fees, pursuant to an order of the Court. If the interested party is a permanent resident, then the interested party shall retain the entire monetary award. Any monetary award obtained by the City and County of San Francisco in such a civil action shall be deposited in the Mayor's Office of Housing, Housing Affordability Fund less the reasonable costs incurred by the City and County of San Francisco in pursuing the civil action.

(1) If the interested party is a permanent resident, such resident, as a condition to initiating civil proceedings pursuant to Subsection (c), must satisfy the requirements set forth in Section 41A.8(b)(2).

(d) **Criminal Penalties.** Any owner who rents an apartment unit for tourist or transient use as defined in this Chapter shall be guilty of a misdemeanor. Any person convicted of a misdemeanor hereunder shall be punishable by a fine of not more than \$1,000 or by imprisonment in the County Jail for a period of not more than six months, or by both. Each apartment unit rented for tourist or transient use shall constitute a separate offense.

(e) **Method of Enforcement, Director.** The Director shall have the authority to enforce this Chapter against violations thereof by any or all of the means provided for in this Section. (Added by Ord. 331-81, App. 6/26/81; amended by Ord. 74-98, App. 3/6/98)

SEC. 41A.6. REPORT ON APARTMENT CONVERSION. (a) The Department of City Planning shall report to the Board of Supervisors on the conversion of apartment units to tourist and commercial uses and shall formulate comprehensive legislation for the Board of Supervisors to consider within one year of the passage of this ordinance.

(b) The Department of City Planning shall specifically determine the following:

(1) The social, economic and physical impact of such conversion upon low and moderate-income households, which comprise a significant portion of the residents of apartment units. These groups shall include, but not be limited to, the elderly, the disabled, minorities, single heads of households with minor children, and other persons with limited economic resources;

(2) The impact that such conversions will have upon the total stock of low and moderate-income housing in the City and County of San Francisco as a whole, as well as the impact upon the areas in which the units in question are located;

(3) The effect of prohibition of the conversion of said apartment units to tourist or commercial uses unless replacement housing units are provided on a one-to-one basis. (Added by Ord. 331-81, App. 6/26/81)

SEC. 41A.7. CONSTRUCTION. (a) Nothing in this Chapter may be construed to supersede any other lawfully enacted ordinance of the City and County of San Francisco.

(b) Clauses of this Chapter are declared to be severable and if any provision or clause of this chapter or the application thereof is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions of this Chapter. (Added by Ord. 331-81, App. 6/26/81)

SEC. 41A.8. PROCEDURES FOR DETERMINING AND APPEALING ADMINISTRATIVE PENALTIES. (a) **Notice of Complaint.** Within 10 days of the filing of a complaint or upon the Director's independent finding that there may be a violation of this Chapter, the Director shall notify the owner by certified mail that the owner's apartment unit is the subject of an investigation for an unlawful rental.

(b) **Director's Determination of a Violation; Notice.** Upon reviewing the information set forth in the complaint, if any, and any information obtained by the Director during his or her investigation, the Director shall determine whether an owner has violated this Chapter. The Director shall notify by certified mail the complainant and the owner of his or her determination.

(1) If the Director determines that a violation has occurred, the Director's notice shall:

(A) Specify a reasonable period of time during which the owner must correct or otherwise remedy the violation; and

(B) State that if the violation is not corrected or otherwise remedied within this period, the owner may be required to pay the administrative penalties set forth in Subsection (c).

(2) If the Director determines that no violation has occurred, for purposes of filing a civil action authorized by Section 41A.5(c)(1), the Director's determination is final.

(c) Imposition of Administrative Penalties for Unabated Violations and Enforcement Costs. (1) **Administrative Penalties.** If the Director, upon further investigation, finds that the violation has continued unabated beyond the time specified in the notice required by Subsection (b)(1)(A), the Director may impose an administrative penalty of not more than three times the rental rate charged for each unlawfully converted unit from the day the unlawful rental commenced until such time as the unlawful rental terminates. The rental rate charged shall be the rent charged, whether daily, weekly, or otherwise calculated, for the apartment unit during the period of the unlawful use.

(2) **Enforcement Costs.** The Director also may require the owner to reimburse the City for the costs of enforcement of this Chapter, which shall include, but not be limited to, reasonable attorneys' fees.

(d) Notice of Director's Determination of Continuing Violation and Imposition of Penalties. The Director shall notify the owner by certified mail that the violation has continued unabated and that administrative penalties shall be imposed pursuant to Subsection (c). The notice shall state the basis of the Director's determination regarding the continued existence of the violation and the resulting imposition of penalties. The notice also shall inform the owner of the right to request a hearing within 10 days of the notice date to contest the Director's determination on the continuation of the violation and the imposition of penalties.

(e) Confirmation of Continuing Violation and Imposition of Penalties. If no request is timely filed for an administrative review hearing, the Director's determination regarding the continuation of the violation and the imposition of penalties shall be deemed confirmed. The Director may then request payment of the administrative penalties and enforcement costs within 30 days of the certified mailed notice to the owner. If the administrative penalties and enforcement costs are not paid, the Director is authorized to initiate lien procedures to secure the amount of the penalties and costs against the real property that is subject to this Chapter, pursuant to the provisions of Section 41.20(d) of this Code; provided however, that the City Treasurer shall distribute all sums collected pursuant to Subsection (l) herein.

(f) Notice of Administrative Review Hearing. Whenever an administrative review hearing is requested pursuant to Subsection (d), the Director, within 45 calendar days of the request, shall notify the owner of the date, time, and place of the hearing by certified mail. Notice of the hearing shall be conspicuously posted on the building that is the subject of the hearing. The owner shall state under oath at the hearing that the notice remained posted for at least 10 calendar days prior the hearing. The Director shall appoint a hearing officer to conduct the hearing.

(g) **Pre-hearing Submission.** No less than three working days prior to the administrative review hearing, parties to the hearing shall submit written information to the Department of Building Inspection including, but not limited to, the following: the issues to be determined by the hearing officer and the evidence to be offered at the hearing. Such information shall be forwarded to the hearing officer prior to the hearing along with any information compiled by the Director.

(h) **Hearing Procedure.** If more than one hearing is requested for apartment units located in the same building at or about the same time, the Director shall consolidate all of the hearings into one hearing. The hearing shall be tape recorded. Any party to the hearing may at his or her own expense, cause the hearing to be recorded by a certified court reporter. Parties may be represented by counsel and have the right to cross-examine witnesses. All testimony shall be given under oath. Written decisions and findings shall be rendered by the hearing officer within 20 working days of the hearing. Copies of the findings and decision shall be served upon the parties by certified mail. A notice that a copy of the findings and decision is available for inspection between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday shall be posted by the owner in the building in the same location in which the notice of the administrative review hearing was posted.

(i) **Finality of the Hearing Officer's Decision and Appeal.** The decision of the hearing officer shall be final. Within 20 days after service of the hearing officer's decision, any party other than the City and County of San Francisco, may seek review of the hearing officer's decision by the municipal court, according to the procedures set forth in California Government Code Section 53069.4.

(j) **Confirmation of Hearing Officer Decision.** If no notice of appeal of the hearing officer's decision is timely filed, the decision shall be deemed confirmed. If any imposed administrative penalties and costs have not been deposited at this time, the Director may proceed to collect the penalties and costs pursuant to the lien procedures set forth in Subsection (e).

(k) **Collection of Penalties after Municipal Court Decision.** If the court finds in favor of the contestant, the amount of the municipal court filing fee shall be reimbursed to the contestant by the City and County of San Francisco. If the administrative penalty has been deposited, the City and County of San Francisco shall distribute the administrative penalty in accordance with the judgment of the court. If the administrative penalties and enforcement costs have not been deposited and the decision of the municipal court is against the contestant, the Director may proceed to collect the penalties and costs.

(l) **Deposit of Penalties.** Administrative penalties paid pursuant to this Chapter shall be deposited in the Mayor's Office of Housing, Housing Affordability Fund less the reasonable costs incurred by the City and County of San Francisco in pursuing the lien procedures set forth in Subsection (e), if such procedures were undertaken. If enforcement costs were imposed pursuant to Subsection (c), such funds shall be distributed according to the purpose for which they were collected. (Added by Ord. 74-98, App. 3/6/98)

CHAPTER 41C**TIME-SHARE CONVERSION ORDINANCE**

Sec. 41C.1.	Title.
Sec. 41C.2.	Findings.
Sec. 41C.3.	Definitions.
Sec. 41C.4.	Conversions Prohibited.
Sec. 41C.5.	Enforcement.
Sec. 41C.6.	Review of Ordinance.
Sec. 41C.7.	Severability.

SEC. 41C.1. TITLE. This Chapter may be referred to as the Time-Share Conversion Ordinance. (Added by Ord. 82-86, App. 3/21/86)

SEC. 41C.2. FINDINGS. (a) There is a severe shortage of permanent housing in San Francisco.

(b) A small supply of suitable vacant land, zoning constraints, construction costs and other factors limit the construction of additional housing in San Francisco.

(c) Population pressures and other demographic trends cause great demand and are likely to accelerate the demand for San Francisco housing.

(d) In light of housing demand and limited new construction, conserving existing permanent housing is especially important.

(e) Conversion of permanent housing to tourist or other temporary use removes housing units from the available stock and worsens the existing shortage.

(f) The shortage of housing most acutely affects low- and moderate-income persons, the elderly and the disabled, both those already living in San Francisco and those wishing to move to the City. Conversion of permanent housing to tourist or other temporary use most seriously affects low- and moderate-income persons, the elderly and the disabled, both those already living in San Francisco and those wishing to move to the City.

(g) At this time, there appears to be no shortage of lodging facilities for visitors in San Francisco.

(h) It is in the public interest to prohibit any additional conversions of permanent housing, whether occupied or unoccupied, to time-share use, which is principally suitable for or used by visitors and other temporary users.

(i) The purpose of this ordinance is to benefit the general public by preserving the supply of existing permanent housing and minimizing adverse effects on persons and households of all income levels, including but not limited to lower- and moderate-income, elderly and disabled persons, by prohibiting the conversion of dwelling units to time-share use and authorizing appropriate remedies. (Added by Ord. 82-86, App. 3/21/86)

SEC. 41C.3. DEFINITIONS. When used in this ordinance, the following terms shall each have the meaning indicated.

(a) "Residential unit" shall mean: (i) a dwelling unit as defined in Section 203.4 of the Housing Code, or: (ii) any portion of a structure which portion is part of

a hotel as defined in Section 203.8 of the Housing Code; provided, however, that "residential unit" shall not include any unit classified as a tourist unit or a private club under Chapter 41 of the Administrative Code, or any unit covered by a preliminary public report issued by the California Department of Real Estate, pursuant to Sections 11010 et seq., Business and Professions Code, prior to January 1, 1986.

(b) "Time-share use" shall mean a right, whatever its legal form, in perpetuity, for life, or for a term of years, to the recurrent, exclusive use or occupancy of any segment of real property, annually or on some other periodic basis, for a period of time that has been or will be allotted from among periods established by deed, condition, agreement or other means, whether or not coupled with an estate in real property. (Added by Ord. 82-86, App. 3/21/86)

SEC. 41C.4. CONVERSIONS PROHIBITED. It shall be unlawful for any person to convert to time-share use, offer to another for time-share use or occupy as a time-share use any portion of any structure which portion was a residential unit not in time-share use on the initial effective date of this Section. This prohibition shall not be affected by any intervening change in use of the unit. (Added by Ord. 82-86, App. 3/21/86)

SEC. 41C.5. ENFORCEMENT. Violation of this ordinance shall be a misdemeanor. The Bureau of Building Inspection shall be responsible for enforcement of this ordinance, and may recommend to the City Attorney or District Attorney initiation of an action hereunder. The City Attorney shall have the power to bring an action for injunctive or other judicial relief hereunder. (Added by Ord. 82-86, App. 3/21/86)

SEC. 41C.6. REVIEW OF ORDINANCE. Not later than four years and six months after the initial effective date of this Section, the Department of City Planning shall report to the Board of Supervisors with respect to the subject matter of this ordinance and the stock of permanent housing in the City and County of San Francisco, and may recommend, if appropriate, the modification or repeal of this ordinance. Not later than six months after receipt of said report, the Board of Supervisors shall hold a hearing to consider the contents of the report, and to consider extension or repeal of this ordinance. Not later than six months after receipt of said report, the Board of Supervisors shall hold a hearing to consider the contents of the report, and to consider extension or repeal of this ordinance. This ordinance shall be repealed five years after its initial effective date unless the Board of Supervisors shall on or before that date extend or re-enact it. (Added by Ord. 82-86, App. 3/21/86)

SEC. 41C.7. SEVERABILITY. If any part or parts of this ordinance should be held unconstitutional or otherwise invalid, that shall not affect the validity of any remaining part or parts of this ordinance. The Board of Supervisors hereby declares that it would have passed each part of this ordinance irrespective of the unconstitutionality or invalidity of any other part or parts. (Added by Ord. 82-86, App. 3/21/86)

CHAPTER 42**INDUSTRIAL DEVELOPMENT AUTHORITY**

- Sec. 42.1. Created Under Provisions of State Law.
- Sec. 42.2. Definitions.
- Sec. 42.3. Governing Body; Name.
- Sec. 42.4. Selection of Board.
- Sec. 42.5. Terms of Office.
- Sec. 42.6. Chairperson of Board.
- Sec. 42.7. Organizational Meeting.
- Sec. 42.8. Powers and Limitations of Authority.
- Sec. 42.9. Officers, Employees and Agents.
- Sec. 42.10. Secretary.
- Sec. 42.11. Attorney.
- Sec. 42.12. Oath of Office.
- Sec. 42.13. Manner of Action by Authority.
- Sec. 42.14. Quorum.
- Sec. 42.15. Adoption of Resolution and Motions by Majority Vote.
- Sec. 42.16. Taking of Ayes and Noes, Entry upon Minutes.
- Sec. 42.17. Signing of Resolutions; Attestation.
- Sec. 42.18. Establishment of Rules.
- Sec. 42.19. Administration of Oath and Affirmations.
- Sec. 42.20. Duties of Chairperson.
- Sec. 42.21. Duties of Secretary.
- Sec. 42.22. Quarterly Reports to Board of Supervisors.

SEC. 42.1. CREATED UNDER PROVISIONS OF STATE LAW. There is need for a public corporation to be known as the Industrial Development Authority of the City and County of San Francisco, to function in the City and County under the provisions of the California Industrial Development Financing Act, Title 10 (commencing with Section 91500) of the Government Code.

An Industrial Development Authority shall be created and constituted at the same time and in the same manner prescribed by the California Industrial Development Financing Act of said code. (Added by Ord. 595-80, App. 12/26/80)

SEC. 42.2. DEFINITIONS. Unless the context otherwise requires, the definitions in this section shall govern the construction of this chapter, as follows:

(a) "Act" means the California Industrial Development Financing Act, Title 10 (commencing with Section 91500) of Government Code.

(b) "Authority" means the Industrial Development Authority of the City and County of San Francisco.

(c) "Board" means the Board of Directors of the authority.

(d) "Officer" means the Chairperson and members of the Board, a secretary, a treasurer, and such assistants for the secretary and the treasurer as the Board may appoint. (Added by Ord. 595-80, App. 12/26/80)

SEC. 42.3. GOVERNING BODY; NAME. There shall be a five member board which shall be known as the "Industrial Development Authority of the City and County of San Francisco Board of Directors." (Added by Ord. 595-80, App. 12/26/80)

SEC. 42.4. SELECTION OF BOARD. For purposes of selecting original members of the Board and each replacement to the Board as may be required from time to time, the Mayor shall present to the Board of Supervisors of the City and County of San Francisco the name of one person for each vacancy of the Board for consideration for appointment to the Board by the Board of Supervisors. The Board of Supervisors, alone, shall officially appoint members of the Board. (Added by Ord. 595-80, App. 12/26/80)

SEC. 42.5. TERMS OF OFFICE. At the time of the appointment of the first directors, the Board of Supervisors shall divide the directors into three groups containing as nearly equal whole numbers as possible. The first term of the directors included in the first group shall be approximately one year; the first term of the directors in the second group shall be approximately two years; the first term of the directors included in the third group shall be approximately three years, as determined by the Board of Supervisors, and thereafter the terms of all directors shall be three years. Directors shall be eligible for reappointment for an unlimited number of terms. (Added by Ord. 595-80, App. 12/26/80)

SEC. 42.6. CHAIRPERSON OF BOARD. The authority shall have a chairperson of its board who shall be elected by the members of the Board from among its membership. (Added by Ord. 595-80, App. 12/26/80)

SEC. 42.7. ORGANIZATIONAL MEETING. Within 90 days after the effective date of this ordinance, the Board shall meet and organize as a board of the authority. (Added by Ord. 595-80, App. 12/26/80)

SEC. 42.8. POWERS AND LIMITATIONS OF AUTHORITY. The authority shall exercise all powers, and be subject to all limitations, prescribed in the Act. Direct and indirect expenses of operation of the authority shall be paid exclusively from proceeds of bonds issued pursuant to the Act and this ordinance, or from fees charged by the authority for applications and other filings. (Added by Ord. 595-80, App. 12/26/80)

SEC. 42.9. OFFICERS, EMPLOYEES AND AGENTS. The authority may appoint officers, employees, and agents as prescribed in the Act and not otherwise inconsistent with this chapter. (Added by Ord. 595-80, App. 12/26/80)

SEC. 42.10. SECRETARY. The authority shall appoint a secretary. (Added by Ord. 595-80, App. 12/26/80)

SEC. 42.11. ATTORNEY. The City Attorney of the City and County of San Francisco shall serve as attorney to the authority. (Added by Ord. 595-80, App. 12/26/80)

SEC. 42.12. OATH OF OFFICE. Each officer of the authority before entering upon the duties of office shall take and subscribe to the official oath and file it with the secretary of the authority. The oath of office may be before the secretary, any member of the authority, or any officer authorized by law to administer oaths. (Added by Ord. 595-80, App. 12/26/80)

SEC. 42.13. MANNER OF ACTION BY AUTHORITY. The authority shall act in the manner and be subject to the Charter of the City and County of San Francisco and ordinances enacted thereto. (Added by Ord. 595-80, App. 12/26/80)

SEC. 42.14. QUORUM. A majority of the Board shall constitute a quorum for the transaction of business. (Added by Ord. 595-80, App. 12/26/80)

SEC. 42.15. ADOPTION OF RESOLUTION AND MOTIONS BY MAJORITY VOTE. No resolution or motion shall be passed or become effective without the affirmative votes of at least a majority of the members of the Board. (Added by Ord. 595-80, App. 12/26/80)

SEC. 42.16. TAKING OF AYES AND NOES, ENTRY UPON MINUTES. The ayes and noes shall be taken upon the passage of all resolutions or motions and entered upon the minutes of the Board. (Added by Ord. 595-80, App. 12/26/80)

SEC. 42.17. SIGNING OF RESOLUTIONS; ATTESTATION. All resolutions shall be signed by the Chairperson and attested by the Secretary. (Added by Ord. 595-80, App. 12/26/80)

SEC. 42.18. ESTABLISHMENT OF RULES. Except for any applicable provisions of the Act prescribing rules for the proceedings of the authority, the authority shall establish rules for its proceedings. The authority shall submit to the Board of Supervisors for approval guidelines and priority businesses and types of facilities to be provided financing under this ordinance. (Added by Ord. 595-80, App. 12/26/80)

SEC. 42.19. ADMINISTRATION OF OATHS AND AFFIRMATIONS. Each member of the Board, or the Secretary, may administer oaths and affirmations in connection with the taking of testimony at any hearing, investigation, or other matters pending before the authority. (Added by Ord. 595-80, App. 12/26/80)

SEC. 42.20. DUTIES OF CHAIRPERSON. The Chairperson shall: (a) sign all contracts on behalf of the authority; (b) perform other duties imposed by the Board. (Added by Ord. 595-80, App. 12/26/80)

SEC. 42.21. DUTIES OF SECRETARY. The Secretary shall: (a) Counter-sign all contracts on behalf of the authority; (b) perform other duties imposed by the Board. (Added by Ord. 595-80, App. 12/26/80)

SEC. 42.22. QUARTERLY REPORTS TO BOARD OF SUPERVISORS. The authority shall file with the Board of Supervisors at quarterly intervals a detailed report of all its transactions, including a statement of all revenues and expenditures. The budget of the authority shall be transmitted to the Board of Supervisors and approved annually by the Board of Supervisors in conjunction with the annual budget of the City and County of San Francisco. (Added by Ord. 595-80, App. 12/26/80)

CHAPTER 43

RESIDENTIAL MORTGAGE REVENUE BOND LAW

ARTICLE I GENERAL PROVISIONS AND DEFINITIONS

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- Sec. 43.19. Resolution and Bond Terms.
- Sec. 43.20. Bond Provisions.
- Sec. 43.21. Pledge of Revenues, Money or Property; Lien.
- Sec. 43.22. No Personal Liability.
- Sec. 43.23. Purchase of Bonds by City.
- Sec. 43.24. Actions by Bondholders.
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- Sec. 43.27. Liberal Construction.
- Sec. 43.28. Omissions Not to Affect Validity of Bonds.

Sec. 43.29.	Full Authority.
Sec. 43.30.	Additional Authority.
Sec. 43.31.	Chapter Controlling.
Sec. 43.32.	Severability.

ARTICLE I

GENERAL PROVISIONS AND DEFINITIONS

SEC. 43.1. TITLE. This Chapter may be cited as the Residential Mortgage Revenue Bond Law. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.2. PURPOSE. The Board of Supervisors hereby finds and declares that it is necessary, essential, a public purpose and a municipal affair for the City and County to make, purchase and contract for the making of below-market-interest-rate loans for the purpose of providing mortgage financing for the acquisition, construction, or rehabilitation of housing in the City and County to encourage the availability of adequate housing and home finance for persons and families, including those of low or moderate income, and to develop viable communities by providing decent housing and enhanced living environment.

The City and County can promote such interests pursuant to this Chapter without adversely affecting areas outside the City and County and without conflicting with efforts by the State of California to solve problems of statewide concern. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.3. DEFINITIONS. Unless the context otherwise requires, the terms defined in this Chapter shall have the following meanings:

(a) "Board of Supervisors" means the Board of Supervisors of the City and County of San Francisco.

(b) "Bonds" means any bonds, notes, certificates, debentures or other obligations issued by the City and County pursuant to this Chapter and payable as provided in this Chapter.

(c) "City" means the City and County of San Francisco.

(d) "Cost" means the total of all costs incurred by or on behalf of a participating party to carry out all works and undertakings and to obtain all rights and powers necessary or incident to the acquisition, construction, or rehabilitation of a residence. "Cost" may include all costs of issuance of bonds for such purposes and costs for construction undertaken by a participating party as its own contractor.

(e) "Participating party" means any individual, association, corporation, partnership or other entity which is approved by the City and County to undertake the financing of the costs of a residence pursuant to this Chapter.

(f) "Residence" means real property improved with a residential structure. "Residence" includes condominium and cooperative dwelling units, real property improved with single-family residential structures, and real property improved with multi-family residential structures.

(g) "Revenues" means amounts received by the City and County as payments of principal, interest, and all other charges with respect to a loan under this

Chapter; as payments under a lease, sublease or sale agreement with respect to a residence; as proceeds received by the City and County from mortgage, hazard or other insurance on or with respect to such a loan (or any property securing such loan), lease, sublease or sale agreement, all other rents, charges, fees, income and receipts derived by the City and County from the financing of a residence under this Chapter; any amounts received by the City and County as investment earnings on moneys deposited in any fund securing bonds and such other legally available moneys as the Board of Supervisors may, in its discretion, lawfully designate as revenues. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.4. NO LIMITATION ON APPROPRIATIONS. None of the Revenues, as defined by this Chapter, shall be taken into account in any manner in determining the City and County's compliance with Article XIII B of the California Constitution. (Added by Ord. 245-81, App. 5/13/81)

ARTICLE II

FINANCING RESIDENCES

SEC. 43.5. LOANS FOR RESIDENCES. The City and County may use the proceeds of bonds to make, purchase, or otherwise contract for the making of, a mortgage or other secured or unsecured loan, upon such terms and conditions as the City and County shall deem proper, to any participating party for the costs of a residence. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.6. ACQUISITION, CONSTRUCTION, LEASING AND SELLING OF RESIDENCES. The City and County may use the proceeds of bonds, or other moneys provided by or on behalf of a participating party, to acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip and lease as lessee a residence solely for the purpose of selling or leasing as lessor such residence to such participating party, and may contract with such participating party to undertake on behalf of the City and County to construct, enlarge, remodel, renovate, alter, improve, furnish and equip such residence.

The City and County may sell or lease, upon such terms and conditions as the City and County shall deem proper, to a participating party any residence owned by the City and County under this Chapter, including a residence conveyed to the City and County in connection with a financing under this Chapter but not being financed hereunder. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.7. FEES. The City and County may charge participating parties application, commitment, financing and other fees, in order to recover all administrative and other costs and expenses incurred in the exercise of the powers and duties conferred by this Chapter. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.8. INSURANCE. The City and County may obtain, or aid in obtaining, from any department or agency of the United States or of the State of California or any private company, any insurance or guarantee as to, or of, or for the

payment or repayment of, interest or principal, or both, or any part thereof, on any loan, lease or sale obligation or any instrument evidencing or securing the same, made or entered into pursuant to the provisions of this Chapter; and may accept payment in such manner and form as provided therein in the event of default by a participating party, and may assign any such insurance or guarantee as security for bonds. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.9. RENTS AND CHARGES. The City and County may fix rents, payments, fees, charges and interest rates for financing under this Chapter and may agree to revise from time to time such rents, payments, fees, charges and interest rates to reflect changes in interest rates on bonds, losses due to defaults or changes in other expenses related to this Chapter, including City and County administrative expenses. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.10. SECURITY FOR LOANS. The City and County may hold deeds of trust or mortgages or security interests in personal property as security for loans under this Chapter and may pledge or assign the same as security for repayment of bonds. Such deeds of trust, mortgages or security interests, or any other interest of the City and County in any residence, may be assigned to, and held on behalf of the City and County by any bank or trust company appointed to act as trustee by the City and County in any resolution or indenture providing for issuance of bonds. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.11. PROFESSIONAL SERVICES. The City and County may contract for such engineering, architectural, financial, accounting, legal or other services as may be necessary in the judgment of the City and County for the purposes of this Chapter. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.12. EQUAL OPPORTUNITY. The City and County shall require that contractors and subcontractors engaged in the construction of facilities financed under this Chapter shall provide equal opportunity for employment, without discrimination as to race, marital status, sex, color, religion, national origin or ancestry. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.13. PUBLIC WORKS REQUIREMENTS INAPPLICABLE. Except as specifically provided in this Chapter, the acquisition, construction, or rehabilitation of a residence financed under this Chapter shall not be subject to any requirements relating to buildings, works or improvements owned or operated by the City and County, and any requirement of public competitive bidding or other procedural restriction imposed on the award of contracts for acquisition or construction of a City and County building, work or improvement or to the lease, sublease, sale or other disposition of City and County property shall not be applicable to any action taken under this Chapter. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.14. REGULATIONS. The Mayor of the City and County, or a person designated by the Mayor, shall prepare and submit to the Board of Supervisors for approval, rules or regulations, or both, permitted under this Section. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.15. ADDITIONAL POWERS. In addition to all other powers specifically granted by this Chapter, the City and County may do all things necessary or convenient to carry out the purposes of this Chapter, provided, however, that the City and County shall not have the power to operate a residence financed under this Chapter as a business, except temporarily in the case of a default by a participating party. (Added by Ord. 245-81, App. 5/13/81)

ARTICLE III

BONDS

SEC. 43.16. ISSUANCE OF BONDS. The City and County may, from time to time, issue bonds for any of the purposes specified in Section 105. Bonds shall be negotiable instruments for all purposes, subject only to the provisions of such bonds for registration. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.17. BONDS NOT DEBT OF CITY. Every issue of bonds shall be a limited obligation of the City and County payable from all or any specified part of the revenues and the moneys and assets authorized in this Chapter to be pledged or assigned to secure payment of bonds. Such revenues, moneys or assets shall be the sole source of repayment of such issue of bonds. Bonds issued under the provisions of this Chapter shall not be deemed to constitute a debt or liability of the City and County or a pledge of the faith and credit of the City and County but shall be payable solely from specified revenues, moneys and assets. The issuance of bonds shall not directly, indirectly, or contingently obligate the City and County to levy or pledge any form of taxation or to make any appropriation for their payment.

All bonds shall contain on the face thereof a statement to the following effect:

Neither the faith and credit nor the taxing power of the City and County is pledged to the payment of the principal of or premium or interest on this bond.

(Added by Ord. 245-81, App. 5/13/81)

SEC. 43.18. COST OF ISSUANCE. In determining the amount of bonds to be issued, the City and County may include all costs of the issuance of such bonds, reserve funds and capitalized bond interest. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.19. RESOLUTION AND BOND TERMS. Bonds may be issued as serial bonds, term bonds, installment bonds or pass-through certificates or any combination thereof. Bonds shall be authorized by resolution of the Board of Supervisors and shall bear such date or dates; mature at such time or times; bear interest at such fixed or variable rate or rates; be payable at such time or times; be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, be subject to such terms of redemption and have such other terms and conditions as such resolution, or any

indenture authorized by such resolution to be entered into by the City and County, may provide. Bonds may be sold at either public or private sale and for such prices as the City and County shall determine. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.20. BOND PROVISIONS. Any resolution authorizing any bonds or any issue of bonds, or any indenture authorized by such resolution to be entered into by the City and County, may contain provisions respecting any of the following terms and conditions, which shall be a part of the contract with the holders of such bonds:

(a) The terms, conditions and form of such bonds and the interest and principal to be paid thereon;

(b) Limitations on the uses and purposes to which the proceeds of sale of such bonds may be applied, and the pledge or assignment of such proceeds to secure the payment of such bonds;

(c) Limitations on the issuance of additional parity bonds, the terms upon which additional parity bonds may be issued and secured, and the refunding of outstanding bonds;

(d) The setting aside of reserves, sinking funds and other funds and the regulation and disposition thereof;

(e) The pledge or assignment of all or any part of the revenues and of any other moneys or assets legally available therefor and the use and disposition of such revenues, moneys and assets;

(f) Limitation on the use of revenues for operating, administration or other expenses of the City and County;

(g) Specification of the acts or omissions to act which shall constitute a default in the duties of the City and County to holders of such bonds, and providing the rights and remedies of such holders in the event of default, including any limitations on the right of action by individual bondholders;

(h) The appointment of a corporate trustee to act on behalf of the City and County and the holders of its bonds, the pledge or assignment of loans, deeds of trust, mortgages, leases, subleases, sale contracts and any other contracts to such trustee, and the rights of such trustee;

(i) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of such bonds the holders of which must consent thereto, and the manner in which such consent may be given; and

(j) Any other provisions which the Board of Supervisors may deem reasonable and proper for the purposes of this Chapter and the security of the bondholders. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.21. PLEDGE OF REVENUES, MONEY OR PROPERTY; LIEN. Any pledge of revenues or other moneys or assets pursuant to the provisions of this Chapter shall be valid and binding from the time such pledge is made. Revenues, moneys and assets so pledged and thereafter received by the City and County shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the City and County, irrespective of whether such parties have

notice thereof. Neither the resolution nor any indenture by which a pledge is created need be filed or recorded except in the records of the City and County. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.22. NO PERSONAL LIABILITY. Neither the members of the Board of Supervisors, the officers or employees of the City and County, nor any person executing any bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.23. PURCHASE OF BONDS BY CITY. The City and County shall have the power out of any funds available therefor to purchase its bonds. The City and County may hold, pledge, cancel, or resell such bonds, subject to and in accordance with agreements with the bondholders. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.24. ACTIONS BY BONDHOLDERS. Any holder of bonds issued under the provisions of this Chapter or any of the coupons appertaining thereto, and any trustee appointed pursuant to any resolution authorizing the issuance of bonds, except to the extent the rights thereof may be restricted by such resolution or any indenture authorized thereby to be entered into by the City and County, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect or enforce any and all rights specified in law or in such resolution or indenture, and may enforce and compel the performance of all duties required by this Chapter or by such resolution or indenture to be performed by the City and County or by any officer, employee, or agent thereof, including the fixing, charging, and collecting of rates, fees, interest, and charges authorized and required by the provisions of such resolution or indenture to be fixed, charged, and collected. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.25. REFUNDING BONDS. The City and County may issue bonds for the purpose of refunding any bonds then outstanding. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.26. VALIDITY OF BONDS. The validity of the authorization and issuance of any bonds is not dependent on and shall not be affected in any way by any proceedings taken by the City and County for the approval of any financing or the entering into of any agreement, or by the failure to provide financing or enter into any agreement, for which bonds are authorized to be issued under this Chapter. (Added by Ord. 245-81, App. 5/13/81)

ARTICLE IV

SUPPLEMENTAL PROVISIONS

SEC. 43.27. LIBERAL CONSTRUCTION. This Chapter, being necessary for the welfare of the City and County and its inhabitants, shall be liberally construed to effect its purposes. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.28. OMISSIONS NOT TO AFFECT VALIDITY OF BONDS. Any omission of any officer or the City and County in proceedings under this Chapter or any other defect in the proceedings shall not invalidate such proceedings or the bonds issued pursuant to this Chapter. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.29. FULL AUTHORITY. This Chapter is full authority for the issuance of bonds by the City and County for the purposes specified herein. (Added by Ord. 245-81, App. 5/13/81)

SEC 43.30. ADDITIONAL AUTHORITY. This Chapter shall be deemed to provide a complete, additional, and alternative method for doing the things authorized thereby, and shall be regarded as supplemental and additional to the powers conferred by other laws. The issuance of bonds under the provisions of this Chapter need not comply with the requirements of any other law applicable to the issuance of bonds.

The purposes authorized hereby may be effectuated and bonds may be issued for any such purposes under this Chapter notwithstanding that any other law may provide for such purposes or for the issuance of bonds for like purposes and without regard to the requirements, restrictions, limitations or other provisions contained in any other law. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.31. CHAPTER CONTROLLING. To the extent that the provisions of this Chapter are inconsistent with the provisions of any general statute or special act or parts thereof the provisions of this Chapter shall be deemed controlling. (Added by Ord. 245-81, App. 5/13/81)

SEC. 43.32. SEVERABILITY. If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this Chapter which can be given effect without the invalid provision or application; and to this end the provisions of this Chapter are declared to be severable. The Board of Supervisors hereby declares that it would have adopted and passed this Chapter and each section, subsection, sentence, clause, phrase and word hereof, irrespective of the fact that any one or more of the other sections, subsections, sentences, clauses, phrases or words hereof be declared invalid or unconstitutional (Added by Ord. 245-81, App. 5/13/81).

CHAPTER 44**ADULT DAY HEALTH CARE PLANNING COUNCIL**

- Sec. 44.1. Establishment of the Council; Appointment.
- Sec. 44.2. Public Hearing.
- Sec. 44.3. Composition of Council.
- Sec. 44.4. Terms of Council Members.
- Sec. 44.5. President and Vice President of the Council.
- Sec. 44.6. Compensation.
- Sec. 44.7. Power and Duties.
- Sec. 44.8. Assistance in the Development of the County Plan.

SEC. 44.1. ESTABLISHMENT OF THE COUNCIL; APPOINTMENT. Pursuant to Section 1572.5 of the California Health and Safety Code, there is hereby established an advisory council of 17 members, known as the Adult Day Health Care Planning Council, who shall be appointed by the Board of Supervisors. (Added by Ord. 329-81, App. 6/19/81; amended by Ord. 434-89, App. 12/6/89)

SEC. 44.2. PUBLIC HEARING. In accordance with Section 1572.7 of the California Health and Safety Code, there shall be a public hearing prior to the establishment of the Council. (Added by Ord. 329-81, App. 6/19/81)

SEC. 44.3. COMPOSITION OF COUNCIL. The composition of the Council shall be as follows:

(a) Nine persons over 55 years of age who have a demonstrated interest in the special health and social needs of the elderly and who are representative of organizations dedicated primarily to the needs of older persons, including those of low income and racial and ethnic minorities;

(b) One representative of the area agency on aging designated pursuant to Public Law 94-135; or, if none, a county agency responsible for services to senior citizens;

(c) One representative of a county agency responsible for administration of health programs for senior citizens;

(d) A representative of the County Department of Public Social Services, or the equivalent agency;

(e) One representative of the County Medical Society;

(f) One representative of a publicly funded senior citizen transportation program;

(g) One representative of a health facility or organization of health facilities providing acute or long-term care to the elderly;

(h) A member-at-large who has demonstrated interest in alternatives to institutional long-term care; and

(i) A functionally impaired adult member with a demonstrated interest in community-based, long-term care needs of the functionally impaired who is 18 or over, and under 55 years of age.

In making appointments to the Council, the Board shall take into consideration any recommendations made by the Mayor with respect to any of the above categories. (Added by Ord. 329-81, App. 6/19/81; amended by Ord. 434-89, App. 12/6/89)

SEC. 44.4. TERMS OF COUNCIL MEMBERS. The term of each member shall be for three years. Where a member, prior to the expiration of his or her term, ceases to retain the status which qualified him or her for appointment to the Council, the membership shall terminate and there shall be a vacancy on the Council. (Added by Ord. 329-81, App. 6/19/81; amended by Ord. 434-89, App. 12/6/89)

SEC. 44.5. PRESIDENT AND VICE PRESIDENT OF THE COUNCIL. Commencing with the date upon which the first members take office, the Council shall elect a president and vice president from among its members. (Added by Ord. 329-81, App. 6/19/81)

SEC. 44.6. COMPENSATION. Members of the Council shall serve without compensation. (Added by Ord. 329-81, App. 6/19/81)

SEC. 44.7. POWER AND DUTIES. Pursuant to Section 1572.9 of the California Health and Safety Code and guidelines adopted thereunder, the Council shall have the following powers and duties:

(a) To prepare a City and County plan for the development of a community-based system of quality adult day health care;

(b) To hold public hearings on the City and County plan prior to the plan's adoption; and

(c) To review all applications for adult day health care licenses within the City and County and make recommendations to the California Department of Health Services. (Added by Ord. 329-81, App. 6/19/81)

SEC. 44.8. ASSISTANCE IN THE DEVELOPMENT OF THE COUNTY PLAN. The Department of Public Health and the Commission on the Aging shall assist the Council in the development of the City and County plan for adult day health care. Staff support shall be provided by the Department of Public Health. (Added by Ord. 329-81, App. 6/19/81)

CHAPTER 45**JURY FEES**

Sec. 45.1.	Title.
Sec. 45.2.	Grand Juror Fees.
Sec. 45.3.	Trial Juror Fees.

SEC. 45.1. TITLE. This chapter shall be known as the Jury Fees Ordinance. (Amended by Ord. 514-84, App. 12/21/84)

SEC. 45.2. GRAND JUROR FEES. Grand Jurors shall receive for each day's attendance, upon a regularly called grand jury meeting, \$11 per meeting and, in addition a Grand Juror shall be compensated for up to four committee meetings per month at \$11 per meeting.

For the purposes of this section, meetings to be compensated are defined as follows. A grand jury meeting shall mean a meeting of the full grand jury. A committee meeting shall mean a meeting of the grand jury which is less than the total number of members of the full grand jury and designated by the foreperson of the grand jury to conduct, on behalf of the grand jury, an investigation of the operations of City and County government, provided that the committee must be investigating a matter under its jurisdiction. (Amended by Ord. 514-84, App. 12/21/84)

SEC. 45.3. TRIAL JUROR FEES. Trial jurors shall receive for each day's attendance in the Superior and Municipal Courts, in both civil and criminal cases, the fee of \$10. In addition, trial jurors shall be reimbursed at the rate of \$1.50 for every 10 miles, or fraction thereof, actually travelled from the residence of the juror in attending court as a juror, in going only. (Added by Ord. 514-84, App. 12/21/84)



CHAPTER 48

ECONOMIC DEVELOPMENT BOND LAW

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GENERAL PROVISIONS AND DEFINITIONS

- Sec. 48.1. Title.
- Sec. 48.2. Purpose.
- Sec. 48.3. Definitions.
- Sec. 48.4. No Limitation on Appropriations.

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- Sec. 48.40. Issuance of Bonds.
- Sec. 48.41. Bonds Not Debt of City.
- Sec. 48.42. Bond Terms.
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- Sec. 48.44. Pledge of Revenues, Money or Property; Lien.
- Sec. 48.45. No Personal Liability.
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ARTICLE IV

SUPPLEMENTAL PROVISIONS

- Sec. 48.60. Liberal Construction.
- Sec. 48.61. Omissions Not to Affect Validity of Bonds.
- Sec. 48.62. Full Authority.

Sec. 48.63.	Additional Authority.
Sec. 48.64.	Chapter Controlling.
Sec. 48.65.	Severability.

ARTICLE I

GENERAL PROVISIONS AND DEFINITIONS

SEC. 48.1. TITLE. This Chapter may be cited as the Economic Development Revenue Bond Law of the City and County of San Francisco. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.2. PURPOSE. The Board of Supervisors hereby finds and declares that it is necessary and essential to the well-being of the City and County that it provide financial assistance to promote the economic development of the City and County. Such economic development will serve the following public purposes and municipal affairs of the City and County:

- (a) The full and gainful employment of residents of the City and County;
- (b) The full and efficient utilization and modernization of existing industrial, commercial and business facilities;
- (c) The development of new industrial, commercial and business facilities;
- (d) The growth of the City and County's tax base through increased property values and consumer purchasing;
- (e) The reduction of the need for and costs of welfare and other remedial programs;
- (f) The reduction of urban ills, such as crime, attributable in part to inadequate economic opportunities;
- (g) The stability and diversification of the City and County's economy;
- (h) The lowering of the cost to City and County consumers of necessary goods and services;
- (i) The environmentally optimum disposition of waste materials of the City and County; and
- (j) The enhancement of the general economic prosperity, health, safety and welfare of the residents of the City and County.

The availability of the financial assistance authorized by this Chapter will serve those purposes and the general plan of the City and County by providing private enterprises and the City and County with new methods of financing capital outlays in the City and County and by ensuring that economic development within the City and County will reflect the local community's needs and objectives and will be environmentally optimum with respect to both the physical and social environment of the City and County. The City and County shall promote such public interests pursuant to this Chapter without adversely affecting areas outside the City and County and without conflicting with efforts by the State of California to solve problems of statewide concern. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.3. DEFINITIONS. Unless the context otherwise requires, the terms defined in this Chapter shall have the following meanings:

(a) "Board" means the Board of Supervisors of the City and County of San Francisco.

(b) "Bonds" means the bonds, notes, certificates, debentures and other obligations and evidences of indebtedness authorized to be issued by the City and County pursuant to this Chapter and payable as provided in this Chapter.

(c) "City" means the City and County of San Francisco.

(d) "Cost" means the total of all costs incurred by or on behalf of a Participating Party to carry out all works and undertakings and to obtain all rights and powers necessary or incident to the acquisition, construction, installation, reconstruction, rehabilitation or improvement of a Facility. "Cost" may include all costs of issuance of bonds for such purposes, costs for construction undertaken by a Participating Party as its own contractor, capitalized bond interest, reserves for debt service and for repairs, replacements, additions and improvements to a Facility, and other working capital incident to the operation of a Facility.

(e) "Facility" means any of the facilities, places or buildings within, serving or otherwise substantially connected to the City and County which are, or will be, maintained and operated for industrial, manufacturing, research and development, commercial or business purposes, or energy uses, or any combination of such purposes and uses, and conform to the general plan of the City and County are approved by the City and County for the financing authorized by this Chapter, such approval being given only when the City and County finds and determines that such financing (1) will substantially promote one or more of the public purposes listed in Section 48.2 and (2) will not have the proximate effect of the relocation of any substantial operations of the Participating Party from one area of the State to another or the abandonment of any substantial operations of such Participating Party within other areas of the State, or, if such financing will have either of such effects, then such financing is reasonably necessary to prevent the relocation of any substantial operations of the Participating Party from an area within the State to an area outside the State.

A "Facility" may also be an activity which may otherwise be financed pursuant to the California Industrial Development Financing Act (Government Code Section 91500 et seq.) to the extent said Act permits the financing of such activity under alternative authority. "Facility" includes, without limitation, real and personal property, land, buildings, structures, fixtures machinery and equipment and all such property related to or required or useful for the operation of a Facility. Facility does not include any facility, place or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(f) "Participating Party" means any individual, association, corporation, partnership or other entity which is approved by the City and County to undertake the financing of the Costs of a Facility for which this Chapter authorizes the issuance of Bonds.

(g) "Responsible Department" means the Mayor except that, unless otherwise specified by the Mayor, Responsible Department for proposals for financing under this Chapter of any Facility described in Section 103(b) (4) of the Internal Revenue Code of 1954, as amended, shall be that department, office, commission or authority of the City and County having jurisdiction over the proposed Facility.

(h) "Revenue" means amounts received by the City and County as payments of principal, interest, and all other charges with respect to a loan authorized by this Chapter, as payments under a lease, sublease or sale agreement with respect to a Facility, as proceeds received by the City and County from mortgage, hazard or other insurance on or with respect to a loan (or property securing such loan), lease, sublease or sale agreement all other rents, charges, fees, income and receipts derived by the City and County from the financing of a Facility authorized by this Chapter, any amounts received by the City and County as investment earnings on moneys deposited in any fund securing the Bonds, and such other legally available moneys as the Board of Supervisors may, in its discretion, lawfully designate as Revenues. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.4. NO LIMITATION ON APPROPRIATIONS. Revenues, as defined by this Chapter, and the expenditure of such Revenues shall not be taken into account in any manner in determining the City and County's compliance with Article XIII B of the California Constitution. (Added by Ord. No. 139-83, App. 3/18/83)

ARTICLE II

FINANCING FACILITIES

SEC. 48.20. LOANS FOR FACILITIES. The City and County is hereby authorized to make, purchase, or otherwise contract for the making of, a mortgage or other secured or unsecured loan, with the proceeds of Bonds and upon such terms and conditions as the City and County shall deem proper, to any Participating Party for the Costs of a Facility. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.21. ACQUISITION, CONSTRUCTION, LEASING AND SELLING OF FACILITIES. The City and County is authorized to acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip and lease as lessee, with the proceeds of Bonds, a Facility solely for the purpose of selling or leasing as lessor such Facility to such Participating Party, and is further authorized to make any contracts for such purposes. The City and County is also authorized to contract with such Participating Party to undertake on behalf of the City and County to construct, enlarge, remodel, renovate, alter, improve, furnish and equip such Facility.

The City and County is authorized to sell or lease, upon such terms and conditions as the City and County shall deem proper, to a Participating Party any Facility owned by the City and County under this Chapter, including a Facility conveyed to the City and County in connection with a financing authorized by this Chapter but not being financed hereunder. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.22. APPLICATIONS FOR APPROVAL. Any person may apply to the responsible department for approval as a Participating Party and for approval of a Facility for financing under this Chapter. Applications shall set forth such

information as the Responsible Department may require in order to enable the Responsible Department to evaluate the applicant, the Facility and its proposed costs. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.23. FEES. The City and County is hereby authorized to charge Participating Parties application, commitment, financing and other fees, in order to recover all administrative and other costs and expenses incurred in the exercise of the powers and duties conferred by this Chapter. The Responsible Department shall transmit a letter agreement or contract to a Participating Party which will obligate such party to pay such fees and expense as the City and County may charge or incur hereunder. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.24. INSURANCE. The City and County is hereby authorized to obtain, or aid in obtaining, from any department or agency of the United States or of the State of California or any private company, any insurance or guarantee as to, or of, or for the payment or repayment of, interest or principal, or both, rents, fees or other charges, or any part thereof, on any loan, lease or sale obligation or any instrument evidencing or securing the same, made or entered into as authorized by this Chapter; and is authorized to accept payment in such manner and form as provided therein in the event of default by a Participating Party, and to assign any such insurance or guarantee as security for Bonds. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.25. RENTS AND CHARGES. The City and County is hereby authorized to fix rents, payments, fees, charges and interest rates for a financing authorized by this Chapter and to agree to revise from time to time such rents, payments, fees, charges and interest rates to reflect changes in interest rates on Bonds, losses due to defaults or changes in other administrative expenses. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.26. SECURITY FOR LOANS. The City and County is hereby authorized to hold deeds of trust or mortgages or security interests in personal property as security for loans and other obligations authorized by this Chapter and to pledge or assign the same as security for repayment of Bonds. Such deeds of trust, mortgages or security interests, or any other interest of the City and County in any Facility, may be assigned to, and held on behalf of, the City and County by any bank or trust company appointed to act as trustee by the City and County in any resolution or indenture providing for the issuance of Bonds. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.27. PROFESSIONAL SERVICES. The City and County is hereby authorized to contract for such engineering, architectural, financing, accounting, leasing, legal or other services as may be necessary in the judgment of the City and County to accomplish the purposes of this Chapter. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.28. PUBLIC WORKS REQUIREMENTS INAPPLICABLE. Except as specifically provided in this Chapter, the acquisition, construction,

installation, reconstruction, rehabilitation or improvement of a Facility financed under this Chapter shall not be subject to any requirements relating to buildings, works or improvements owned or operated by the City and County, and any requirement of public competitive bidding or other procedural restriction imposed on the award of contracts for acquisition or construction of a City and County building, work or improvement or to the lease, sublease, sale or other disposition of City and County property shall not be applicable to any action taken under this Chapter. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.29. ADDITIONAL POWERS. In addition to all other powers specifically granted by this Chapter, the City and County is hereby authorized to contract for and do all things necessary or convenient to carry out the purposes of this Chapter, provided, however, that the City and County shall not have the power to operate a Facility financed under this Chapter as a business, except temporarily in the case of a default by a Participating Party. (Added by Ord. No. 139-83, App. 3/18/83)

ARTICLE III

BONDS

SEC. 48.40. ISSUANCE OF BONDS. The City and County is authorized to issue Bonds in an unlimited aggregate principal amount, from time to time, in such series and amounts as are determined by the Board of Supervisors to be necessary or appropriate to provide for the Costs of Facilities approved by the Board of Supervisors. Bonds shall be negotiable instruments for all purposes, subject only to the provisions of such Bonds for registration. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.41. BONDS NOT DEBT OF CITY. All of the Bonds authorized under this Chapter shall be limited obligations of the City and County payable from all or any specified part of the revenues and the moneys and assets authorized in this Chapter to be pledged or assigned to secure payment of Bonds. Such revenues, moneys or assets shall be the sole source of repayment of such issues of Bonds. Bonds issued as authorized by this Chapter shall not be deemed to constitute a debt or liability of the City and County or a pledge of the faith and credit of the City and County but shall be payable solely from specified revenues, moneys and assets. The issuance of Bonds shall not directly, indirectly, or contingently obligate the City and County to levy or pledge any form of taxation or to make any appropriation for their payment.

All Bonds shall contain on the face thereof a statement to the following effect:

Neither the faith and credit nor the taxing power of the City and County of San Francisco is pledged to the payment of the principal of or premium, if any, or interest on this bond.

(Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.42. BOND TERMS. Bonds shall be issued as serial bonds, term bonds, installment bonds or pass-through certificates or any combination thereof. The Responsible Department shall determine the terms and timing of the issuance of particular Bonds in accord with the resolution of the Board of Supervisors approving the particular Facility to be financed thereby. Bonds shall bear such date or dates, mature at such time or times not to exceed 40 years, bear interest at such fixed or variable rate or rates approved by the Participating Party whose Facility is being financed but not to exceed the maximum rate permitted by law, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, be subject to such terms of redemption and have such other terms and conditions as such resolution, or any indenture to be entered into by the City and County pursuant to such resolution, shall provide. Bonds shall be sold at either public or private sale and for such prices as the City and County shall determine. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.43. BOND PROVISIONS. Any resolution relating to the issuance of any Bonds, or any indenture to be entered into by the City and County pursuant to such resolution, may contain provisions respecting any of the following terms and conditions, which shall be a part of the contract with the holders of such Bonds:

(a) The terms, conditions and form of such Bonds and the interest and principal to be paid thereon;

(b) Limitations on the uses and purposes to which the proceeds of sale of such Bonds may be applied, and the pledge or assignment of such proceeds to secure the payment of such Bonds;

(c) Limitations on the issuance of additional parity Bonds, the terms upon which additional parity Bonds may be issued and secured, and the refunding of outstanding Bonds;

(d) The setting aside of reserves, sinking funds and other funds and the regulation and disposition thereof;

(e) The pledge or assignment of all or any part of the Revenues and of any other moneys or assets legally available therefor (including loans, deeds of trust, mortgages, leases, subleases, sales agreements and other contracts and security interests) and the use and disposition of such Revenues, moneys and assets, subject to such agreements with the holders of Bonds as may then be outstanding;

(f) Limitation on the use of Revenues for operating, administration or other expenses of the City and County;

(g) Specification of the act or omissions to act which shall constitute a default in the duties of the City and County to holders of such Bonds, and providing the rights and remedies of such holders in the event of default, including any limitations on the right of action by individual bondholders;

(h) The appointment of a corporate trustee to act on behalf of the City and County and the holders of its Bonds, the pledge or assignment of loans, deeds of trust, mortgages, leases, subleases, sale contracts and any other contracts to such trustee, and the rights of such trustee;

(i) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated the amount of such Bonds the holders of which must consent thereto, and the manner in which such consent may be given; and

(j) Any other provisions which the Board of Supervisors or the Responsible Department may deem reasonable and proper for the purposes of this Chapter and the security of the bondholders. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.44. PLEDGE OF REVENUES, MONEY OR PROPERTY; LIEN. Any pledge of Revenues or other moneys or assets as authorized by this Chapter shall be valid and binding from the time such pledge is made. Revenues, moneys and assets so pledged and thereafter received by the City and County shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the City and County, irrespective of whether such parties have notice thereof. Neither the resolution nor any indenture by which a pledge is created need be filed or recorded except in the records of the City and County. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.45. NO PERSONAL LIABILITY. Neither the members of the Board of Supervisors, the officers or employees of the City and County or the Responsible Department, nor any person executing any Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.46. PURCHASE OF BONDS BY CITY. The City and County shall have the power out of any funds available to purchase its Bonds. The City and County may hold, pledge, cancel, or resell such Bonds, in accordance with agreements with the bondholders. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.47. ACTIONS BY BONDHOLDERS. Any holder of Bonds issued under the provisions of this Chapter, and any trustee appointed pursuant to any resolution relating to the issuance of Bonds, except to the extent the rights thereof may be restricted by such resolution or any indenture authorized thereby to be entered into by the City and County, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect or enforce any and all rights specified in law or in such resolution or indenture, and may enforce and compel the performance of all duties required by this Chapter or by such resolution or indenture to be performed by the City and County or by any officer, employee, or agent of the City and County, including the fixing, charging, and collecting of rates, fees, interest, and charges authorized and required by the provisions of such resolution or indenture to be fixed, charged, and collected. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.48. REFUNDING BONDS. The City and County is hereby authorized to issue Bonds for the purpose of refunding any Bonds then outstanding. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.49. BOND ANTICIPATION NOTES. In anticipation of the sale of Bonds authorized by this Chapter, the City and County is hereby authorized to issue bond anticipation notes, and to renew the same from time to time, in such series and amounts as are determined by the Board of Supervisors to be necessary or appropriate for the Costs of Facilities approved by the Board of Supervisors. Such notes shall be payable from Revenues or other moneys or assets authorized by this Chapter to be pledged to secure payment of Bonds, and which are not otherwise pledged, or from the proceeds of sale of the particular Bonds in anticipation of which they are issued. Such notes shall be issued in the same manner as Bonds. The Responsible Department shall determine the terms and timing of the issuance of particular bond anticipation notes in accord with the provisions of Section 48.42 and the resolution of the Board of Supervisors approving the particular Facility to be financed thereby. Such notes, any resolution relating to the issuance of such notes and any indenture to be entered into by the City and County pursuant to such resolution may contain any provisions, conditions or limitations permitted under Section 48.43. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.50. VALIDITY OF BONDS. The validity of the authorization and issuance of any Bonds is not dependent on and shall not be affected in any way by any proceedings taken by the City and County for the approval of any financing or the entering into of any agreement, or by the failure to provide financing or enter into any agreement, for which Bonds are authorized to be issued under this Chapter. (Added by Ord. No. 139-83, App. 3/18/83)

ARTICLE IV

SUPPLEMENTAL PROVISIONS

SEC. 48.60. LIBERAL CONSTRUCTION. This Chapter, being necessary for the welfare of the City and County and its inhabitants, shall be liberally construed to effect its purposes. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.61. OMISSIONS NOT TO AFFECT VALIDITY OF BONDS. Any omission of any officer of the City and County in proceedings under this Chapter or any other defect in the proceedings shall not invalidate such proceedings or the Bonds issued pursuant to this Chapter. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.62. FULL AUTHORITY. This Chapter is full authority for the issuance of Bonds by the City and County for any of the purposes specified herein. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.63. ADDITIONAL AUTHORITY. This Chapter shall be deemed to provide a complete, additional, and alternative method for doing the things authorized thereby, and shall be regarded as supplemental and additional to the powers conferred by other laws. The issuance of Bonds under the provisions of this Chapter need not comply with the requirements of any other law applicable to the

issuance of bonds. The purposes authorized hereby may be effectuated and Bonds are authorized to be issued for any such purposes under this Chapter notwithstanding that any other law may provide for such purposes or for the issuance of bonds for like purposes and without regard to the requirements, restrictions, limitations or other provisions contained in any other law. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.64. CHAPTER CONTROLLING. To the extent that the provisions of this Chapter are inconsistent with the provisions of any general statute or special act or parts thereof the provisions of this Chapter shall be deemed controlling. (Added by Ord. No. 139-83, App. 3/18/83)

SEC. 48.65. SEVERABILITY. If any provisions of this Chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared to be severable. The Board of Supervisors hereby declares that it would have adopted and passed this Chapter and each section, subsection, sentence, clause, phrase and word hereof, irrespective of the fact that any one or more of the other sections, subsections, sentences, clauses, phrases or words hereof be declared invalid or unconstitutional. (Added by Ord. No. 139-83, App. 3/18/83)

CHAPTER 49**SECURITY DEPOSITS FOR RESIDENTIAL RENTAL PROPERTY**

- Sec. 49.1. Security Deposit for Residential Rental Property Defined.
- Sec. 49.2. Payment of Interest on Security Deposits.
- Sec. 49.3. Remedies.
- Sec. 49.4. Waiver.
- Sec. 49.5. Severability.

SEC. 49.1. SECURITY DEPOSIT FOR RESIDENTIAL RENTAL PROPERTY DEFINED. As provided in Section 1950.5 of the California Civil Code, a security deposit is any payment, fee, deposit or charge including, but not limited to, any of the following: (1) The compensation of a landlord for a tenant's default in the payment of rent; (2) the repair of damages to the premises caused by the tenant; (3) the cleaning of the premises upon termination of the tenancy. (Added by Ord. No. 299-83, App. 6/3/83)

SEC. 49.2. PAYMENT OF INTEREST ON SECURITY DEPOSITS. (a) A landlord who is subject to the provisions of Section 1950.5 of the California Civil Code shall pay at least five percent simple interest per year on all security deposits held for at least one year for his/her tenants; provided, however, that this requirement shall not apply where the rent is assisted or subsidized by any government unit, agency or authority.

(b) Interest shall begin accruing on September 1, 1983, or on whatever date the security deposit is received by the landlord after September 1, 1983. Beginning on September 1, 1984, or on any date thereafter upon which the security deposit has been held by the landlord for one year, a tenant shall be given the unpaid accrued interest in the form of either a direct payment or a credit against the tenant's rent. The landlord shall choose between these two methods of payment.

(c) The landlord may elect to pay the accrued interest as provided in Subsection (b) above on a monthly basis, but in no event less than once a year.

(d) Upon termination of tenancy, a tenant whose security deposit has been held for one year or more shall be entitled to a direct payment of any unpaid accrued interest no later than two weeks after the tenant has vacated the premises; provided, however, that a landlord may retain any portion of the unpaid accrued interest, subject to the limitations and requirements set forth in Section 1950.5 (e) of the California Civil Code, where the security deposit alone is insufficient to remedy tenant default in the payment of rent, to repair damages to the premises caused by the tenant, exclusive of ordinary wear and tear, or to clean such premises, if necessary, upon termination of the tenancy.

(e) Nothing in this Chapter shall preclude a landlord from exercising his or her discretion in investing security deposits.

(f) Notwithstanding the provisions of (a) through (d) above, where a landlord seeks reimbursement for the annual Residential Rent Stabilization and Arbitration fee as provided in Sec. 37A.6 of this Code, the landlord may deduct said fee from the next interest payment owed to the tenant pursuant to this Chapter. (Added by Ord.

No. 299-83, App. 6/3/83; amended by Ord. 278-89, App. 8/2/89; Ord. 291-90, App. 8/1/90)

SEC. 49.3. REMEDIES. The rights, obligations and remedies of tenants and landlords under this Chapter shall be as provided in Subsections (f), (g), (h) and (j) of Section 1950.5 of the California Civil Code. (Added by Ord. No. 299-83, App. 6/3/83)

SEC. 49.4. WAIVER. Any waiver by a tenant of rights under this Chapter shall be void as contrary to public policy. (Added by Ord. No. 299-83, App. 6/3/83)

SEC. 49.5. SEVERABILITY. If any provision or clause of this Chapter or the application thereof to any person or circumstance is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other Chapter provisions, and clauses of this Chapter are declared to be severable. (Added by Ord. No. 299-83, App. 6/3/83)

CHAPTER 50**NONPROFIT PERFORMING ARTS LOAN PROGRAM****ARTICLE I
GENERAL PROVISIONS**

- Sec. 50.1. Purpose and Findings.
Sec. 50.2. Definitions.

**ARTICLE II
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- Sec. 50.10. Duties of City and County Agencies.
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**ARTICLE III
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- Sec. 50.20. Applicant's Plan for Facilities Maintenance and Capital Improvements.
Sec. 50.21. Eligibility for Loans.
Sec. 50.22. Maximum Loan Amount; Factors in Determining Terms and Conditions.
Sec. 50.23. Loan Fees and Interest Rates; Deferrals and Waivers.
Sec. 50.24. Security for Loans.
Sec. 50.25. Insurance.
Sec. 50.26. Transfer and Assignment of Loans.

**ARTICLE IV
MISCELLANEOUS PROVISIONS**

- Sec. 50.30. Severability.

**ARTICLE I
GENERAL PROVISIONS**

SEC. 50.1. PURPOSE AND FINDINGS. The Board of Supervisors hereby finds and declares that nonprofit performing arts organizations are an important cultural element of the quality of life in San Francisco. The Board also finds and declares that numerous arts organizations either operate out of facilities which do not meet the standards imposed by City and State fire, building, earthquake and other safety codes or are unable to acquire adequate operating space. Many of these arts organizations are financially unable to maintain their facilities or make the capital

improvements needed to bring their facilities into compliance with these codes. This Chapter is therefore enacted in order to make low-cost loans available to qualified arts organizations for facilities maintenance, renovation and capital improvements so that they may carry on their work in facilities which are in full compliance with all applicable code requirements and with all other requirements which enable the facilities to be used for performing arts. In addition, this Chapter is enacted in order that low-cost loans may be made to these arts organizations for the acquisition or renovation of adequate operating space, to the extent that funds are available for this purpose.

The Board of Supervisors expressly finds and declares that the appropriation and expenditure of public funds for the purposes set forth above will serve a public purpose and will benefit the residents of San Francisco as a whole. Nonprofit arts organizations which work in substandard facilities are currently faced with the choice of either continuing to work in environments that are unsafe for their members and audiences alike, or of interrupting their work while they seek new and adequate facilities. The loans to be provided under this Chapter will assure that these arts organizations carry on their efforts in facilities which enhance the health, safety and welfare of the artists and of those who come to view their work. (Added by Ord. 69-84, App. 2/15/84; amended by Ord. 160-91, App. 4/25/91)

SEC. 50.2. DEFINITIONS. Unless otherwise indicated by the context, the following definitions shall govern the construction of this Chapter:

(a) "Arts organization" shall mean a nonprofit performing arts organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and which is otherwise eligible for loans under this Chapter.

(b) "Director" shall mean the Director of the Mayor's Office of Housing, or his or her designee.

(c) "Fund" shall mean the Nonprofit Performing Arts Loan Fund, established pursuant to Administrative Code Section 10.117-41.

(d) "Incipient code violation" shall mean a physical condition of property which may reasonably be expected to deteriorate into a code violation within two years. (Added by Ord. 69-84, App. 2/15/84; amended by Ord. 160-91, App. 4/25/91)

ARTICLE II

LOAN ADMINISTRATION

SEC. 50.10. DUTIES OF CITY AND COUNTY AGENCIES. The Director shall be responsible for administration of all aspects of the Nonprofit Performing Arts Loan Program. The Director and each City and County agency assigned responsibilities under this Chapter shall have all such authority as may be reasonably necessary to carry out those responsibilities. While retaining the overall responsibility for the administration of the program, the Director may utilize the services of the Department of Public Works and the Fire Department in connection with the code enforcement aspects of the program, and the services of the Real Estate Department in connection with the loan financing aspects of the program. The Director may also request the

assistance of any other City and County agency in meeting his or her responsibilities under this program. (Added by Ord. 69-84, App. 2/15/84)

SEC. 50.11. RULES AND REGULATIONS. The Director shall promulgate such rules and regulations as he or she may deem appropriate to carry out the provisions of this Chapter. Said rules and regulations shall be developed in consultation with pertinent City and County agencies and any other appropriate organizations which the Director in his or her discretion may choose to consult. The Board of Supervisors shall by resolution approve all such rules and regulations prior to their effective date. A copy of all such rules and regulations shall be available for review by the public during regular business hours in the office of the Director, the office of the Clerk of the Board of Supervisors, the Fire Prevention Bureau of the Fire Department, the Department of Public Works and in every other office which is assigned responsibilities for carrying out this program. (Added by Ord. 69-84, App. 2/15/84)

SEC. 50.12. REPORTS TO THE BOARD OF SUPERVISORS. The Director shall submit a semi-annual report to the Board of Supervisors, within 90 days following the completion of each six-month period, setting forth a description of all loans made under this Chapter and an accounting of the uses made of all monies appropriated to the fund for the period in question. The Director's report shall include the fees, interest rates and other charges levied for each loan. The semi-annual reports shall also include the following information:

(a) For loans subsequent to the date of the last semi-annual report, the primary purpose of the loan, the principal amount, interest rate, and any fees which have been charged on the loan in excess of regularly scheduled interest payments; and

(b) For loans outstanding as of the date of the last semi-annual report, the outstanding principal balance, the current status of principal and interest, repayments made, if any, any current or potential default under the loan documents and any potential administrative action to be taken with respect thereto. (Added by Ord. 69-84, App. 2/15/84; amended by Ord. 160-91, App. 4/25/91)

ARTICLE III

LOAN REQUIREMENTS

SEC. 50.20. APPLICANT'S PLAN FOR FACILITIES MAINTENANCE AND CAPITAL IMPROVEMENTS. Each loan applicant shall submit a proposed plan for facilities maintenance and capital improvements or acquisition as part of the loan application process. The proposed plan shall include provisions designed to correct all code violations and incipient code violations of applicable City and State fire, building, earthquake and other safety codes, and any other provisions which the Director in his or her discretion may require. In consultation with the Department of Public Works, the Fire Department and other relevant City and County agencies, the Director shall review the proposed plan to ensure that it meets all applicable code requirements for the subject property. (Added by Ord. 69-84, App. 2/15/84)

SEC. 50.21. ELIGIBILITY FOR LOANS. Each arts organization working in a facility in San Francisco which has been or is subject to being cited for code violations or incipient code violations or that intends to acquire or renovate a facility in San Francisco shall be eligible for a loan under this Chapter. Loans under this Chapter shall be available only to arts organizations with annual budgets of less than \$1,000,000, and only for the repair and maintenance or acquisition of facilities containing 50 to 499 seats. Each arts organization shall apply for a loan in compliance with all applicable rules and regulations as promulgated by the Director; shall demonstrate to the satisfaction of the Director the ability to repay such a loan; and shall meet all applicable requirements as set forth in this Chapter.

Priority for loans shall be given to arts organizations seeking funds to correct life safety code violations in the facility where they are presently working or acquisitions necessitated by life safety code defects. It is the intent of the Board of Supervisors that the maximum degree of cultural and ethnic diversity be achieved among loan recipients, to insure that minority, disabled, lesbian/gay and other arts organizations may share in the benefits of this program. In administering this loan program, the Director shall give priority to this intent and shall insure that sufficient funds are available to achieve this purpose. (Added by Ord. 69-84, App. 2/15/84; amended by Ord. 160-91, App. 4/25/91)

SEC. 50.22. MAXIMUM LOAN AMOUNT; FACTORS IN DETERMINING TERMS AND CONDITIONS. The maximum amount of a loan under this Chapter shall be \$150,000. The Director shall determine the terms and conditions of each loan, based upon the following factors:

- (a) Whether the arts organization owns the subject property or holds a longterm lease the life of which exceeds the anticipated repayment period;
 - (b) The size, age, value and condition of the subject property;
 - (c) The nature and extent of all code and incipient code violations;
 - (d) The type of security to be given for the loan;
 - (e) The verifiable financial soundness of the arts organization and its ability to complete the project for which the loan application is made;
 - (f) The degree to which an arts organization can demonstrate community interest in and support for its artistic programs; and
 - (g) Any other factors that the Director shall, by rule and regulation, establish.
- (Added by Ord. 69-84, App. 2/15/84; amended by Ord. 160-91, App. 4/25/91)

SEC. 50.23. LOAN FEES AND INTEREST RATES; DEFERRALS AND WAIVERS. A one percent loan fee on the principal of the loan shall be levied for all loans made under this Chapter. An interest rate of three percent simple interest shall also be levied by the Director.

In individual cases of documented hardship, the Director may either waive payment of the loan fee or defer it until the termination of the loan. The Director shall promulgate rules and regulations which shall be applied in making determinations of such waivers and deferrals. (Added by Ord. 69-84, App. 2/15/84)

SEC. 50.24. SECURITY FOR LOANS. The owner of the subject property shall agree in writing to all alterations to the property to be financed by the loan as

a prerequisite to granting a loan to any arts organization which is a tenant in the subject property. A copy of the arts organization's lease shall also be filed with the Director.

Every loan made under this Chapter shall be fully secured. The Director shall evaluate the types of security offered by each loan applicant and shall give preference to those types and amounts of security that in his or her opinion will provide the greatest protection for the City's funds. Further, the Director shall determine that the liquidation value of any security equals or exceeds the full value of the loan and the expected costs of proceeding on such security and obtaining the proceeds of any collateral. Those types of security shall include, but are not limited to:

(a) A deed of trust on the subject property, naming the City and County as beneficiary;

(b) The guarantee of the owner of the subject property, in cases where the arts organization is the tenant of the property to be improved;

(c) The independent, joint and several, collateral guarantee of the Board of Directors of an arts organization;

(d) A chattel mortgage or financing statement on equipment or other personal property owned by the arts organization. (Added by Ord. 69-84, App. 2/15/84; amended by Ord. 160-91, App. 4/25/91)

SEC. 50.25. INSURANCE. All loans made under this Chapter shall provide that the loan applicant shall maintain, throughout the term of the loan, fire and lightning insurance with an extended coverage endorsement and a vandalism and malicious mischief endorsement. Such insurance shall be in an amount equal to 100 percent of the replacement cost of the improvements or other work to be financed by the proceeds of the loan. If a loss occurs which results in the total destruction of the subject structure, the insurance policy shall provide payment to the City in the amount of the then outstanding loan balance. The Director shall promulgate regulations, in consultation with the Risk Manager, to determine the circumstances in which any additional insurance requirements may be imposed. (Added by Ord. 69-84, App. 2/15/84)

SEC. 50.26. TRANSFER AND ASSIGNMENT OF LOANS. (a) The unpaid amount of any loan shall be due and payable upon the occurrence of any of the following events:

(1) Sale or transfer of ownership of the property, if the arts organization is the owner of the subject property.

(2) The vacation of the property by the arts organization, if the organization is the tenant of the subject property.

(3) Cessation of activities by the borrower as a nonprofit performing arts organization, whether or not the property is transferred or vacated.

(4) Cessation of use of the property as a performing arts facility.

(b) Assignment of the unpaid amount of such a loan to a purchaser or transferee may be permitted where the Director determines that the purchaser or transferee is an arts organization which qualifies for a loan under current loan eligibility standards. The Director shall promulgate rules and regulations which shall be applied in making

the determinations required under this subsection. (Added by Ord. 69-84, App. 2/15/84; amended by Ord. 160-91, App. 4/25/91)

ARTICLE IV

MISCELLANEOUS PROVISIONS

SEC. 50.30. SEVERABILITY. The provisions of this ordinance shall not apply to any person, association, corporation or to any property as to whom or which it is beyond the power of the City and County to legislate. If any sentence, clause, section or part of this ordinance is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this ordinance, or person or entity; and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this ordinance, or its effect on other persons or entities. It is hereby declared to be the intention of the Board of Supervisors of the City and County that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part of this ordinance not been included herein; or had such person or entity been expressly exempted from the application of this ordinance. To this end the provisions of this ordinance are severable. (Added by Ord. 69-84, App. 2/15/84)

CHAPTER 51**VOLUNTARY ARTS CONTRIBUTIONS PROGRAM**

- Sec. 51.01. Purpose and Findings.
- Sec. 51.02. Duties of Tax Collector.
- Sec. 51.03. Duties of Mayor.
- Sec. 51.04. Expenditures from Fund.
- Sec. 51.05. Severability.

SEC. 51.01. PURPOSE AND FINDINGS. The Board of Supervisors hereby finds and declares that it is in the public interest to facilitate private contributions for the support of the arts in San Francisco. To the extent that members of the public can be encouraged to make donations to nonprofit arts organizations, the cultural quality of life in the City will be enhanced and the need to support such arts activities with public funds will be diminished. This Chapter is therefore enacted to facilitate the collection and distribution of donations from San Francisco residents and other interested members of the public for equipment acquisition, facilities maintenance and capital improvements. (Added by Ord. 79-84, App. 2/23/84)

SEC. 51.02. DUTIES OF TAX COLLECTOR. (a) The Tax Collector shall develop procedures to solicit contributions from all taxpayers for nonprofit arts organizations in San Francisco. Said procedures shall include, but not be limited to, the inclusion of an explanatory brochure or other material to be mailed in conjunction with all property tax bills, stating that contributions for nonprofit arts organizations may be mailed to the Tax Collector in addition to payments for property taxes.

(b) The Tax Collector shall record the receipt of all contributions received and shall deposit the same into the Voluntary Arts Contributions Fund. (Added by Ord. 79-84, App. 2/23/84)

SEC. 51.03. DUTIES OF MAYOR. (a) The Mayor, or his or her designee, shall be responsible for the administration of the Voluntary Arts Contributions Fund, and shall have all such authority as may be reasonably necessary to carry out those responsibilities.

(b) The Mayor shall promulgate such rules and regulations as he or she may deem appropriate to carry out the provisions of this Chapter. Such rules and regulations shall be developed in consultation with any appropriate agencies or organizations with which the Mayor, or his or her designee, may choose to consult. Such rules and regulations shall be designed to ensure that nonprofit arts organizations which meet current eligibility requirements for the receipt of funds from the Publicity and Advertising Fund shall also be eligible for the receipt of funds under this Chapter.

(c) The Mayor shall submit a semiannual report to the Board of Supervisors, setting forth an accounting of the amounts disbursed to each nonprofit arts organization and the uses for which said funds were made. (Added by Ord. 79-84, App. 2/23/84; amended by Ord. 287-96, App. 7/12/96)

SEC. 51.04. EXPENDITURES FROM FUND. It is the intent of the Board of Supervisors that monies deposited into the Voluntary Arts Contribution Fund shall

be made available for equipment acquisition, facilities maintenance and capital improvements for the benefit of nonprofit arts organizations.

In evaluating applications for funds under this Chapter, the Mayor shall give preference, where possible, to nonprofit arts organizations with annual budgets of less than \$1,000,000.

It is also the intent of the Board of Supervisors that the maximum degree of cultural and ethnic diversity be achieved among recipients of funds under this Chapter, to insure that minority, disabled, lesbian/gay and other nonprofit arts organizations may share in the benefits of this Fund. In administering the Voluntary Arts Contribution Fund, the Mayor shall give priority to this intent and shall insure that sufficient funds are available to achieve this purpose. (Added by Ord. 79-84, App. 2/23/84; amended by Ord. 287-96, App. 7/12/96)

SEC. 51.05. SEVERABILITY. If any provisions of this ordinance or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the ordinance and the applicability of such provisions to other persons and circumstances shall not be affected thereby. (Added by Ord. 79-84, App. 2/23/84)

CHAPTER 51A**YOUTH AND CHILDREN SERVICES CONTRIBUTIONS PROGRAM**

- Sec. 51A.1. Purpose and Findings.
- Sec. 51A.2. Duties of Tax Collector.
- Sec. 51A.3. Duties of Mayor's Office of Community Development.
- Sec. 51A.4. Disbursements from Fund.

SEC. 51A.1. PURPOSE AND FINDINGS. The Board of Supervisors hereby finds and declares that it is in the public interest to facilitate private contributions for the development of youth and children programs in San Francisco. To the extent that members of the public can be encouraged to make donations for youth and children programs, the quality of life in the City will be enhanced, incidents of delinquency reduced and the need to address such activities with public funds will be diminished. This Chapter is therefore enacted to facilitate the collection and distribution of donations from San Francisco residents and other interested members of the public for the creation and development of youth and children programs by the City and nonprofit organizations for development of recreational and cultural activities for the youth and children of the City including but not limited to administration, equipment acquisition, facilities maintenance and capital improvements. (Amended by Ord. 505-86, App. 12/24/86)

SEC. 51A.2. DUTIES OF TAX COLLECTOR. (a) The Tax Collector shall develop procedures to solicit contributions from all taxpayers for youth and children services in San Francisco. Said procedures shall include, but not be limited to, the inclusion of an explanatory brochure or other material to be mailed in conjunction with all annual Payroll and Business Tax Statements or Small Business Tax Exemption Notices, and the quarterly Hotel Transient Occupancy Tax returns, stating that the contributions may be mailed to the Tax Collector in addition to or separate from payments for property taxes.

(b) The Tax Collector shall record the receipt of all contributions received and shall deposit the same into the Youth and Children Services Contributions Fund. (Amended by Ord. 505-86, App. 12/24/86)

SEC. 51A.3. DUTIES OF MAYOR'S OFFICE OF COMMUNITY DEVELOPMENT. (a) The Executive Director of the Mayor's Office of Community Development, or his or her designee, shall be responsible for the administration of the Youth and Children Services Contributions Fund, and shall have all such authority as may be reasonably necessary to carry out those responsibilities.

(b) The Executive Director shall promulgate such rules and regulations as he or she may deem appropriate to carry out the provisions of this Chapter. Such rules and regulations shall be developed in consultation with any appropriate agencies or organizations with which the Executive Director, or his or her designee, may choose to consult. Such rules and regulations shall be designed to ensure that nonprofit organizations which meet current eligibility requirements for the receipt of funds from the City's Community Development Block Grant Program Public Services category shall also be eligible for the receipt of funds under this Chapter.

(c) The Executive Director shall establish a protocol for the use of the Fund, which shall be approved by the Board of Supervisors. Thereafter, the Executive Director shall submit a semi-annual report to the Board of Supervisors, setting forth an accounting of the amounts to be disbursed to each nonprofit organization and the uses for which said funds were made. (Amended by Ord. 505-86, App. 12/24/86)

SEC. 51A.4. DISBURSEMENTS FROM FUND. It is the intent of the Board of Supervisors that monies deposited in the Youth and Children Services Contribution Fund shall be made available for administration, equipment acquisition, facilities maintenance and capital improvements for the benefit of public and nonprofit organizations. (Amended by Ord. 505-86, App. 12/24/86)

CHAPTER 52**WATER DEPARTMENT AND HETCH HETCHY REVENUE BOND
ELECTION PROCEDURE**

- Sec. 52.01. Utility Revenue Bonds; Submission to Voters.
- Sec. 52.02. Statement of Purpose; Incidental Expenses; Discretion.
- Sec. 52.03. Regular or Special Meeting.
- Sec. 52.04. Content of Resolution.
- Sec. 52.05. Regular or Special Election; Other Propositions.
- Sec. 52.06. Payable Only from Revenues; Not to be Secured by Taxing Power.
- Sec. 52.07. Publication and Distribution.
- Sec. 52.08. Majority Vote of Electorate Required.
- Sec. 52.09. Issuance and Sale of Authorized Bonds.

SEC. 52.01. UTILITY REVENUE BONDS; SUBMISSION TO VOTERS. Whenever the Charter requires that a Water Department or Hetch Hetchy revenue bond issue be submitted to the voters, this Board by resolution adopted and signed by the Mayor shall submit the proposed revenue bond issue to the voters and shall set the date for the election. (Added by Ord. 346-84, App. 8/7/84)

SEC. 52.02. STATEMENT OF PURPOSE; INCIDENTAL EXPENSES; DISCRETION. The resolution authorizing submission of the proposed revenue bond issue may include any purpose authorized by the Revenue Bond Law of 1941, as it read, including amendments, on June 5, 1984, and may include any or all expenses incidental to such purpose or connected therewith and may include any combination of two or more such purposes. (Added by Ord. 346-84, App. 8/7/84)

SEC. 52.03. REGULAR OR SPECIAL MEETING. The resolution calling a revenue bond election may be adopted by a majority vote of all members at a regular or special meeting and at the same meeting at which it is introduced. (Added by Ord. 346-84, App. 8/7/84)

SEC. 52.04. CONTENT OF RESOLUTION. The resolution shall:

- (a) State the purpose for which the bonds are proposed to be issued.
- (b) State the maximum principal amount of the bonds.
- (c) Fix the election date.
- (d) Fix the manner of holding the election.
- (e) Fix the manner of voting on the issuance of the bonds.
- (f) State that in all other particulars the election shall be held and the votes canvassed pursuant to law governing general municipal elections, the Charter, or as otherwise specified in such resolution. (Added by Ord. 346-84, App. 8/7/84)

SEC. 52.05. REGULAR OR SPECIAL ELECTION; OTHER PROPOSITIONS. The resolution may provide for a special election to consider the

revenue bond proposition or propositions or it may provide for including the revenue bond proposition or propositions in any city-wide election. (Added by Ord. 346-84, App. 8/7/84)

SEC. 52.06. PAYABLE ONLY FROM REVENUES; NOT TO BE SECURED BY TAXING POWER. The resolution shall state that the bonds are to be revenue bonds, payable exclusively from the revenue of the Water Department or the Hetch Hetchy Project, as the case may be, and the resolution shall also state that the bonds are not to be secured by the taxing power of the City and County of San Francisco. (Added by Ord. 346-84, App. 8/7/84)

SEC. 52.07. PUBLICATION AND DISTRIBUTION. The ballot proposition authorizing a sale of revenue bonds shall be printed in the voters' pamphlet and mailed to each registered voter pursuant to Charter Section 9.105. No other publication, mailing or distribution shall be required. (Added by Ord. 346-84, App. 8/7/84)

SEC. 52.08. MAJORITY VOTE OF ELECTORATE REQUIRED. The votes of a majority of all the voters voting on the proposition to issue revenue bonds are required to authorize the issuance of the bonds. (Added by Ord. 346-84, App. 8/7/84)

SEC. 52.09. ISSUANCE AND SALE OF AUTHORIZED BONDS. If the issuance of the bonds is authorized at the election, the Public Utilities Commission shall provide for their issuance and sale. (Added by Ord. 346-84, App. 8/7/84)

CHAPTER 54**SOUTHEAST COMMUNITY FACILITY COMMISSION**

- Sec. 54.1. Findings.
- Sec. 54.2. Establishment of Commission; Appointment; Terms; Meetings; Compensation; Executive Director.
- Sec. 54.3. Powers and Duties of the Commission.
- Sec. 54.4. Surplus Funds.
- Sec. 54.5. Rules.

SEC. 54.1. FINDINGS. The Board of Supervisors finds and declares that it is necessary and essential to the well-being of the City to establish a Commission to review and provide guidance for the operations of the Southeast Community Facility.

The Commission will foster the following public purposes and municipal affairs of the City:

- (a) The full and gainful employment of residents of chronically economically depressed areas of the City;
- (b) The progressive development of marketable job skills for untrained and undertrained City residents;
- (c) The creation and expansion of opportunities for residents to participate in day and evening education programs;
- (d) The creation and expansion of opportunities for providing day care services at a low and reasonable cost to parents;
- (e) The expansion of opportunities for special community services for senior citizens;
- (f) The overall improvement of the general economic prosperity, health, safety and welfare of residents of chronically economically depressed areas of the City.

The Board of Supervisors further finds and declares that the Bayview-Hunters Point community, as defined in Section 54.2(b) of this Chapter, is an historically disadvantaged and economically depressed part of the City and that guidance by and participation of persons living or working in that area are essential to the successful operations of the Southeast Community Facility and the attainment of the goals and purposes mentioned above. (Ord. 438-87, App. 11/12/87)

SEC. 54.2. ESTABLISHMENT OF COMMISSION; APPOINTMENT; TERMS; MEETINGS; COMPENSATION; EXECUTIVE DIRECTOR. (a) There is established a Commission to be known as the Southeast Community Facility Commission consisting of seven members. Commission members shall be appointed by and serve at the pleasure of the Mayor. Unless the Mayor determines that it is otherwise impracticable, persons appointed to serve as members of the Commission shall either reside or work in the Bayview-Hunters Point community, as defined in Section 54.2(b) of this Chapter.

(b) For purposes of this Chapter, the Bayview-Hunters Point community is defined as the area south of the southern curb line of Army Street, east of the eastern curb line of the James Lick Freeway (also known as U.S. Route 101), north of the city and county boundary line shared with San Mateo County, and west of San Francisco Bay.

(c) Appointments of Commission members shall be made not later than 60 days after the effective date of this Chapter. Of the members first appointed, three will serve for a term of two years, two will serve for a term of three years, and two will serve for a term of four years. The term of office of each member shall be determined by the drawing of lots at the first meeting of the Commission. Thereafter, members will be appointed for a term of office of four years, except that all of the vacancies occurring during a term will be filled by an appointment made by the Mayor for the unexpired term. Each vacancy shall be filled within 30 days of the occurrence of the vacancy.

(d) A president shall be selected by majority vote of the members of the Commission. The president shall serve for a term of two years and shall not serve more than two consecutive terms.

(e) The date, place and time of meeting shall be determined by rules adopted by the Commission; provided, however, that the Commission will hold a regular meeting not less than once each month.

(f) Subject to the budgetary and fiscal requirements of the Charter, each member shall be paid \$50 per Commission meeting or committee meeting attended. Total compensation shall not exceed \$100 per month.

(g) Any member who misses three regularly scheduled meetings of the Commission in any 12-month period without the express approval of the Commission given at a regularly scheduled meeting will be deemed to have resigned from the Commission.

(h) The Commission shall appoint an Executive Director, who shall serve at the pleasure of the Commission and shall not be subject to the civil service provisions of the Charter. The Executive Director shall possess the qualifications and experience essential to the administration of the Southeast Community Facility. The Executive Director shall be responsible for the enforcement of the rules and regulations of the Commission and shall manage the daily activities of the Southeast Community Facility not undertaken by lessees. (Ord. 438-87, App. 11/12/87; amended by Ord. 407-89, App. 11/8/89; Ord. 287-96, App. 7/12/96)

SEC. 54.3. POWERS AND DUTIES OF THE COMMISSION. The powers and duties of the Commission shall be limited to those necessary to:

(a) Provide guidance necessary for the establishment, retention and enhancement of business activities of the greenhouse, educational and job skills centers, child care and senior activities centers, and any other appropriate activities at the Southeast Community Facility;

(b) Provide guidance to ensure that operation of the facility enhances opportunities first for the benefit of the residents of the Bayview-Hunters Point community and thereafter for the benefit of all other residents of the City and County of San Francisco to engage in employment training and educational activities;

(c) Review and provide guidance on budget matters necessarily affecting the development and improvement of operations of the greenhouse, educational and job skills centers, child care and senior activities centers, and any other appropriate activities at the Southeast Community Facility;

(d) Review and provide guidance regarding proposed lessees and agreements with qualified private, community, public assistance and horticultural organizations;

(e) Provide policy guidance necessary to ensure compliance with all relevant municipal, State and federal laws and regulations, including, but not limited to, construction grant agreements, regulations and orders;

(f) Review and provide guidance on a regular basis on budgetary matters related to the operation and maintenance expenses at the Southeast Community Facility. (Ord. 438-87, App. 11/12/87)

SEC. 54.4. SURPLUS FUNDS. (a) In accordance with State and federal grant agreements, regulations and orders, all proceeds from the leasing of the Southeast Community Facility shall be used to defray City and County costs of operating and administering the facilities.

(b) Proceeds from the leasing of the facilities that exceed the costs of operating and administering the facilities, as calculated at the end of the fiscal year, shall be known as "surplus funds."

(c) Subject to the budgetary and fiscal requirements of the Charter, the Commission may allocate surplus funds accrued during the prior fiscal year for certain uses related to the operations and activities of the Southeast Community Facility.

(d) Surplus funds may be allocated for the following purposes:

(1) Scholarships first for residents of the Bayview-Hunters Point community and thereafter for all other residents of the City and County of San Francisco to attend classes and other educational activities at the Southeast Community Facility or other accredited institutions of education;

(2) Scholarships first for children residing in the Bayview-Hunters Point community and thereafter for all other resident children of the City and County of San Francisco to attend child care centers at the Southeast Community Facility or other State-licensed child care providers;

(3) Supplementary funding for job training programs and activities at the Southeast Community Facility;

(4) Supplementary funding for community agencies which address the needs as identified in Section 54.1, Findings.

(e) There is hereby established a reserve fund to consist of 10 percent of each year's budget surplus for the facility, as available, to be used for the purpose of facility maintenance only. This reserve fund will be maintained for a five-year period, and the use of this reserve fund will be reviewed at the termination of the five-year period. (Ord. 438-87, App. 11/12/87; amended by Ord. 287-96, App. 7/12/96)

SEC. 54.5. RULES. The Commission shall issue rules necessary for the conduct of its activities within 180 days after the effective date of this Chapter. Proposed rules shall be reviewed by the Director of Public Works and Clean Water Program and the Office of the City Attorney prior to adoption by the Commission. (Ord. 438-87, App. 11/12/87)



CHAPTER 55**SAN FRANCISCO REFUNDING REVENUE BOND ACT**

Sec. 55.01.	Declaration of Policy.
Sec. 55.02.	Name.
Sec. 55.03.	Procedure.
Sec. 55.04.	Amendments.
Sec. 55.05.	Additional Procedures.
Sec. 55.06.	Net Debt Savings Calculation.
Sec. 55.07.	Construction.

SEC. 55.01. DECLARATION OF POLICY. It is hereby declared to be the policy of the City to permit the refunding of outstanding revenue bonds whenever such refunding is expected to result in net debt service savings calculated as provided in this Chapter. This Chapter is enacted pursuant to the powers reserved to the City under Sections 3, 5 and 7 of Article XI of the Constitution of the State of California and the Charter. (Added by Ord. 356-87, App. 8/31/87; amended by Ord. 35-98, App. 1/23/98)

SEC. 55.02. NAME. This Chapter shall be known as the San Francisco Refunding Revenue Bond Act. (Added by Ord. 356-87, App. 8/31/87)

SEC. 55.03. PROCEDURE. Whenever the public interest and necessity so require, the legislative body, as hereinafter defined, may, acting under this Chapter, authorize the issuance of refunding bonds in order to refund outstanding revenue bonds. Refunding bonds issued to refund water revenue bonds issued under Section 7.312 of the Charter shall be issued under Section 7.312 of the Charter, as amended by the procedures herein. Refunding bonds shall be issued by the procedures provided for in the Revenue Bond Law of 1941 (Chapter 6 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with Section 54300) as it read, including amendments, on June 5, 1984, except as amended herein and, further, except that the provisions of said Revenue Bond Law of 1941 set forth in Sections 54380 through 54388, inclusive, and Sections 54354.5, 54422, 54424, 54515 and 54522, any references to said Sections, and any provisions of said Revenue Bond Law of 1941 that are inconsistent with or conflict with the Charter shall not apply to the issuance and sale of such refunding bonds. Reference is hereby made to three copies of said Revenue Bond Law of 1941 (as in effect on June 5, 1984), filed for convenience in the office of the Clerk of the Board of Supervisors on July 7, 1987 and all of the provisions of said Revenue Bond Law of 1941 (as in effect on June 5, 1984 except as in this Chapter otherwise expressly provided) are hereby incorporated in this Chapter by reference and made a part hereof. The legislative body may authorize the issuance of the refunding bonds by means of an indenture, resolution, ordinance, order, agreement or other instrument in writing and, if the legislative body establishes the minimum savings to be generated by the issuance of such refunding bonds, may delegate to appropriate officials or officers of the City or of the legislative body the authority to determine the final terms, amounts, maturities, interest rates and other provisions of said refunding bonds. (Added by Ord. 356-87, App. 8/31/87)

SEC. 55.04. AMENDMENTS. Certain provisions of said Revenue Bond Law of 1941 (as in effect on June 5, 1984), as incorporated herein, are revised, as follows:

(a) Section 54402(b) of said Revenue Bond Law of 1941 (as in effect on June 5, 1984) is hereby revised to read as follows:

(b) The interest of the bonds, either fixed or variable, at such rate or rates and payable at the times and in the manner specified.

(b) Section 54403 of said Revenue Bond Law of 1941 (as in effect on June 5, 1984) is revised to read as follows:

Any premium payable on the bonds shall be in the amount or amounts specified by the legislative body.

(c) Section 54418 of said Revenue Bond Law of 1941 (as in effect on June 5, 1984) is revised to read as follows:

The legislative body may sell the bonds at a price above or below par in such manner at public or private sale as it determines by resolution is appropriate.

(d) The following three sections are added to Article 1 of the Act, said sections to read as follows:

§ 54317. Legislative body, definition

"Legislative body" means the commission, board or other governing body that adopted the resolution authorizing the issuance of the bonds to be refunded, and any successor to such commission, board or other governing body.

§ 54318. Resolution, definition

"Resolution" means, unless the context otherwise requires, the instrument providing the terms and conditions for the issuance of the revenue bonds, and may be an indenture, resolution, ordinance, order, agreement or other instrument in writing.

§ 54319. Fiscal agent, definition

"Fiscal agent" means any fiscal agent, trustee, paying agent, depository or other fiduciary provided for in the resolution authorizing the issuance of the refunding bonds.

(Added by Ord. 356-87, App. 8/31/87)

SEC. 55.05. ADDITIONAL PROCEDURES. Prior to the issuance of refunding bonds by the commission, board or other governing body, there shall be presented to the Board of Supervisors and filed with the Clerk of the Board of Supervisors a report of said commission, board or other governing body setting forth the minimum amount of savings to be generated in terms of scheduled principal and interest

payments by the issuance of the refunding bonds. (Added by Ord. 356-87, App. 8/31/87)

SEC. 55.06. NET DEBT SAVINGS CALCULATION. (a) Acting under the provisions of the Charter or under any other provision of general State law, the Board of Supervisors may provide for the issuance of refunding bonds for the purpose of refunding any outstanding revenue bonds of the city or its commissions. No voter approval shall be required for any such refunding bonds which provide net debt service savings to the city on a present value basis calculated as provided in such provisions of general State law or by other ordinance of the Board of Supervisors or as hereinafter provided in Section 55.06. Subject to the foregoing limitation, the principal amount of the refunding bonds (in aggregate or with respect to any maturity) may be more than, less than or the same as the principal amount of the bonds to be refunded.

(b) Net debt service savings shall be calculated by comparing the present value of the aggregate debt service on the refunding bonds to that of the refunded bonds as of the dated date of the refunding bonds using an assumed rate of interest equal to the yield on the refunding bonds. To the extent required, the present value of any funds contributed to the refunding by the City shall be deducted from the savings calculation. Notwithstanding any provision of general State law to the contrary, Section 55.06 shall provide an alternative means of calculating debt service savings to any procedure contained in general State law. The City is authorized to rely on any other State law procedure related to calculating debt service savings.

(c) This Section 55.06 has been adopted pursuant to Section 9.109 of the Charter. (Added by Ord. 35-98, App. 1/23/98)

SEC. 55.07. CONSTRUCTION. The powers conferred by the provisions of this Chapter are in addition to and supplemental to the powers conferred by the Charter or any other ordinance or by law. (Added by Ord. 356-87, App. 8/31/87; amended by Ord. 35-98, App. 1/23/98)



CHAPTER 56**DEVELOPMENT AGREEMENTS**

- Sec. 56.1. Findings.
- Sec. 56.2. Purpose and Applicability.
- Sec. 56.3. Definitions.
- Sec. 56.4. Filing of Application; Forms; Initial Notice and Hearing.
- Sec. 56.5. Form of Agreement.
- Sec. 56.6. Signatories to the Development Agreement.
- Sec. 56.7. Contents of Development Agreement.
- Sec. 56.8. Notice.
- Sec. 56.9. Rules Governing Conduct of Hearing.
- Sec. 56.10. Development Agreement Negotiation Report and Documents.
- Sec. 56.11. Collateral Agreements.
- Sec. 56.12. Irregularity in Proceedings.
- Sec. 56.13. Determination by Commission.
- Sec. 56.14. Decision by Board of Supervisors.
- Sec. 56.15. Amendment and Termination of an Executed Development Agreement by Mutual Consent.
- Sec. 56.16. Recordation of Development Agreements Amendment or Termination.
- Sec. 56.17. Periodic Review.
- Sec. 56.18. Modification or Termination.
- Sec. 56.19. Limitation on Actions.
- Sec. 56.20. Fee.

SEC. 56.1. FINDINGS. The Board of Supervisors ("Board") concurs with the State Legislature in finding that:

(a) The lack of certainty in the approval of development projects can result in a waste of resources, escalate the cost of housing and other development to the consumer, and discourage investment in and commitment to comprehensive planning and development of infrastructure and public facilities which would make maximum efficient utilization of resources at the least economic cost to the public.

(b) Assurance to the applicant/developer for a development project that upon approval of the project, the applicant/developer may proceed with the project in accordance with specified policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development. (Added by Ord. 372-88, App. 8/10/88)

SEC. 56.2. PURPOSE AND APPLICABILITY. (a) The purpose of this Chapter is to strengthen the public planning process by encouraging private participation in the achievement of comprehensive planning goals and reducing the economic costs of development. A development agreement reduces the risks associated with development, thereby enhancing the City's ability to obtain public benefits beyond those achievable through existing ordinances and regulations. To accomplish this

purpose the procedures, requirements and other provisions of this Chapter are necessary to promote orderly growth and development (such as, where applicable and appropriate, provision of housing, employment and small business opportunities to all segments of the community including low income persons, minorities and women), to ensure provision for adequate public services and facilities at the least economic cost to the public, and to ensure community participation in determining an equitable distribution of the benefits and costs associated with development.

(b) Such agreements shall only be used for (1) affordable housing developments or (2) large multi-phase and/or mixed-use developments involving public improvements, services, or facilities installations, requiring several years to complete, as defined below in Section 56.3. (Added by Ord. 372-88, App. 8/10/88)

SEC. 56.3. DEFINITIONS. The following definitions shall apply for purposes of this Chapter:

(a) "Affordable housing development" shall mean for purposes of Section 56.2(b)(1), any housing development which has a minimum of 30 percent of its units affordable to low income households, and a total of 60 percent of its units affordable to households, as defined by the U.S. Census, whose immediate household income does not exceed 120 percent of the median household income for the San Francisco Primary Metropolitan Statistical Area, with the remaining 40 percent of its units unrestricted as to affordability. For purposes of this definition of "affordable housing development," "low income" shall mean the income of households, as defined by the U.S. Census whose immediate household income does not exceed 80 percent of the median household income for the San Francisco Primary Metropolitan Statistical Area. "Median household income" for the San Francisco Primary Metropolitan Statistical Area shall be as determined by the U.S. Department of Housing and Urban Development and adjusted according to the determination of that Department and published from time to time. In the event that such income determinations are no longer published by the Department of Housing and Urban Development, median household income shall mean the median gross yearly income of a household in the City and County of San Francisco, adjusted for household size, as published periodically by the California Department of Housing and Community Development. Such affordable housing development may include neighborhood commercial facilities which are physically and financially an integral part of the affordable housing project and which will provide services to local residents.

(b) "Applicant/Developer" shall mean a person or entity who has legal or equitable interest in the real property which is the subject of the proposed or executed development agreement for an "affordable housing development" or a "large multi-phase and/or mixed-use development," as those terms are defined herein, or such person's or entity's authorized agent or successor in interest; provided, however, that an entity which is subject to the requirements of City Planning Code Section 304.5 relating to institutional master plans does not qualify as an applicant for a development agreement.

(c) "Collateral agreement" shall mean a written contract entered into by the applicant/developer and/or governmental agencies with other entities (including, but not limited to, community coalitions) for the purpose of having said entities

provide for and implement social, economic, or environmental benefits or programs; provided, however, that such term does not include agreements between the applicant/developer or governmental agencies and (1) construction contractors and subcontractors, (2) construction managers, (3) material suppliers, and (4) architects, engineers, and lawyers for customary architectural, engineering or legal services.

(d) "Commission" shall mean the City Planning Commission.

(e) "Director" shall mean the Director of Planning.

(f) "Large multi-phase and/or mixed-use development" shall mean a proposed development project which: (1) is on a site which exceeds five acres in area, (2) includes two or more buildings to be constructed sequentially on the site, and (3) includes a proposal for constructing or participating in providing, either off-site or on-site, public improvements, facilities, or services beyond those achievable through existing ordinances and regulations.

(g) "Material modification" shall mean any proposed amendment or modification to either a proposed development agreement approved by the Commission, or a previously executed development agreement, which amendment or modification is otherwise required by the terms of the development agreement, which changes any provision thereof regarding the following: (1) duration of the agreement; (2) permitted uses of the subject property; (3) density or intensity of the permitted uses; (4) location, height or size of any structures, buildings, or major features; (5) reservation or dedication of land; (6) any conditions, terms, restrictions and requirements relating to subsequent discretionary actions as to design, improvements, construction standards and specifications; (7) any other condition or covenant relating to the financing or phasing of the development which substantially modifies the use of the property, the phasing of the development, or the consideration exchanged between the parties as recited in the proposed development agreement; (8) the type, number, affordability level, and/or tenure of any proposed affordable housing as well as any change as to performance of such public benefits, including but not limited to timing, phasing, method of performance or parties involved; or (9) any other terms or conditions of the development agreement if the development agreement provides that amendment of said specified term or condition would be a material modification.

(h) "Minor modification" shall mean any amendment or modification to the development agreement which relates to any provision not deemed to be a "material modification." (Added by Ord. 372-88, App. 8/10/88)

SEC. 56.4. FILING OF APPLICATION; FORMS; INITIAL NOTICE AND HEARING. (a) The Director may prescribe the form of the application for the preparation and implementation of development agreements.

(b) The applicant must list on the application the anticipated public benefits which would exceed those required by existing ordinances and regulations. The public benefits ultimately provided by an approved development agreement may differ from those initially identified by the applicant/developer. The Director may require an applicant/developer to submit such additional information and supporting data as the Director considers necessary to process the application; provided, however, that the Director shall not require the applicant/developer to

submit, as part of the application, special studies or analyses which the Director would customarily obtain through the environmental review process.

(c) The Director shall endorse the application the date it is received. If the Director finds that the application is complete, the Director shall (1) accept the application for filing, (2) publish notice in the official newspaper of acceptance of said application, (3) make the application publicly available, and (4) schedule a public hearing before the Commission within 30 days following receipt of a completed application. At said public hearing, the Director shall make a recommendation with respect to the fee to be paid by the applicant/developer as set forth in Section 56.20(b). (Added by Ord. 372-88, App. 8/10/88)

SEC. 56.5. FORM OF AGREEMENT. A proposed development agreement, and any modifications or amendments thereto, must be approved as to form by the City Attorney prior to any action by the Director, Commission or Board of Supervisors. (Added by Ord. 372-88, App. 8/10/88)

SEC. 56.6. SIGNATORIES TO THE DEVELOPMENT AGREEMENT. (a) **Applicant.** Only an applicant/developer, as that term is defined in Section 56.3, may file an application to enter into a development agreement.

(b) **Governmental Agencies.** In addition to the City and County of San Francisco and the applicant/developer, any federal, state or local governmental agency or body may be included as a party or signatory to any development agreement. (Added by Ord. 372-88, App. 8/10/88)

SEC. 56.7. CONTENTS OF DEVELOPMENT AGREEMENT. (a) **Mandatory Contents.** A development agreement, by its express terms or by reference to other documents, shall specify (1) the duration of the agreement, (2), the permitted uses of the property, (3) the density or intensity of use, (4) the maximum height and size of proposed buildings, (5) the provisions for reservation or dedication of land for public purposes, (6) for any project proposing housing, the number, type, affordability and tenure of such housing, (7) the public benefits which would exceed those required by existing ordinances and regulations, and (8) non-discrimination and affirmative action provisions as provided in subsection (c) below.

(b) **Permitted Contents.** The development agreement may (1) include conditions, terms, restrictions, and requirements for subsequent discretionary actions, (2) provide that construction shall be commenced within a specified time and that the project or any phase thereof be completed within a specified time, (3) include terms and conditions relating to applicant/developer and/or City financing or necessary public facilities and subsequent reimbursement by other private party beneficiaries, (4) require compliance with specified terms or conditions of any collateral agreements pursuant to Section 56.11, and (5) include any other terms or conditions deemed appropriate in light of the facts and circumstances.

(c) **Nondiscrimination/Affirmative Action Requirements.**

(1) **Nondiscrimination Provisions of the Development Agreement.** The development agreement shall include provisions obligating the applicant/developer not to discriminate on the grounds, or because of, race, color, creed, national origin, ancestry, age, sex, sexual orientation, disability or Acquired Immune Deficiency

Syndrome or AIDS Related Condition (AIDS/ARC), against any employee of, or applicant for employment with the applicant/developer or against any bidder or contractor for public works or improvements, or for a franchise, concession or lease of property, or for goods or services or supplies to be purchased by applicant/developer. The development agreement shall require that a similar provision be included in all subordinate agreements let, awarded, negotiated or entered into by the applicant/developer for the purpose of implementing the development agreement.

(2) **Affirmative Action Program.** The development agreement shall include a detailed affirmative action and employment and training program (including without limitation, programs relating to women, minority and locally-owned business enterprises), containing goals and timetables and a program for implementation of the affirmative action program. For example, programs such as the following may be included:

(i) Apprenticeship where approved programs are functioning, and other on-the-job training for a nonapprenticeable occupation;

(ii) Classroom preparation for the job when not apprenticeable;

(iii) Preapprenticeship education and preparation;

(iv) Upgrading training and opportunities;

(v) The entry of qualified women and minority journeymen into the industry; and

(vi) Encouraging the use of contractors, subcontractors and suppliers of all ethnic groups, and encouraging the full and equitable participation of minority and women business enterprises and local businesses (as defined in Section 12D of this Code and implementing regulations) in the provision of goods and services on a contractual basis.

(3) **Reporting and Monitoring.** The development agreement shall specify a reporting and monitoring process to ensure compliance with the nondiscrimination and affirmative action requirements. The reporting and monitoring process shall include, but not be limited to, requirements that:

(i) A compliance monitor who is not an agent or employee of the applicant/developer be designated to report to the Director regarding the applicant/developer's compliance with the nondiscrimination and affirmative action requirements;

(ii) The applicant/developer permit the compliance monitor or the Director or his designee reasonable access to pertinent employment and contracting records, and other pertinent data and records, as specified in the Development Agreement for the purpose of ascertaining compliance with the nondiscrimination and affirmative action provisions of the development agreement;

(iii) The applicant/developer annually file a compliance report with the compliance monitor and the Director detailing performance pursuant to its affirmative action program, and the compliance monitor annually reports its findings to the Director; such reports shall be included in and subject to the periodic review procedure set forth in Sec. 56.17. (Added by Ord. 372-88, App. 8/10/88)

SEC. 56.8. NOTICE. The Director shall give notice of intention to consider adoption, amendment, modification, or termination of a development agreement for each public hearing required to be held by the Commission under this Chapter. The Clerk of the Board of Supervisors shall give such notice for each public hearing

required to be held by the Board of Supervisors. Such notices shall be in addition to any other notice as may be required by law for other actions to be considered concurrently with the development agreement.

(a) **Form of Notice.**

(1) The time and place of the hearing;

(2) A general summary of the terms of the proposed development agreement or amendment to be considered, including a general description of the area affected, and the public benefits to be provided; and

(3) Other information which the Director, or Clerk of the Board of Supervisors, considers necessary or desirable.

(b) **Time and Manner of Notice.**

(1) **Publication and Mailing.** Notice of hearing shall be provided in the same manner as that required in City Planning Code Section 306.3 for amendments to that Code which would reclassify land; where mailed notice is otherwise required by law for other actions to be considered concurrently with the development agreement, notice of a public hearing before the Commission on the development agreement shall be included on the next Commission calendar to be mailed following the date of publication of notice in the official newspaper.

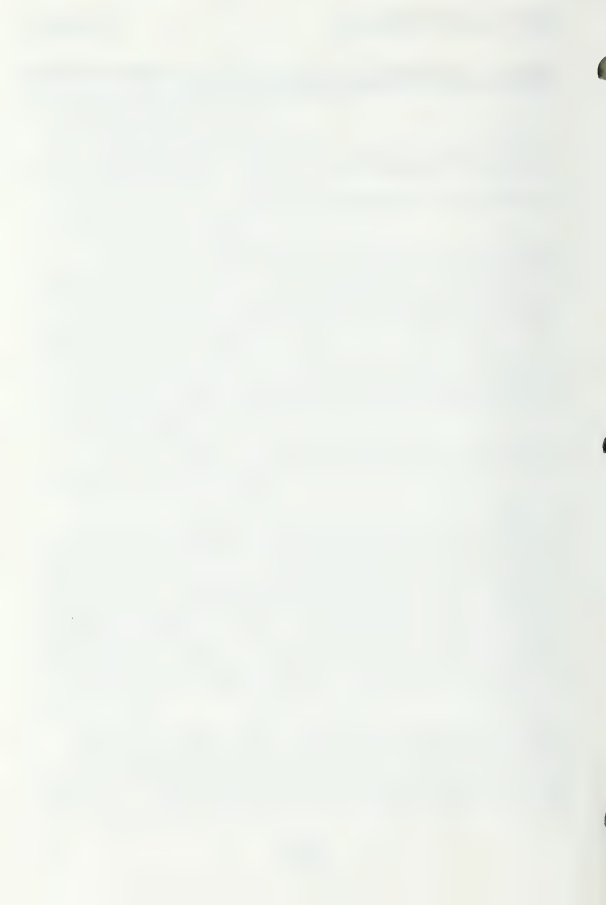
(2) **Notice to Local Agencies.** Notice of the hearing shall also be mailed at least 10 days prior to the hearing to any local public agency expected to provide water, transit, sewage, streets, schools, or other essential facilities or services to the project, whose ability to provide those facilities and services may be significantly affected by the development agreement.

(c) **Failure to Receive Notice.** The failure of any person to receive notice required by law does not affect the authority of the City and County of San Francisco to enter into a development agreement. (Added by Ord. 372-88, App. 8/10/88; amended by Ord. 59-91, App. 2/27/91)

SEC. 56.9. RULES GOVERNING CONDUCT OF HEARING. The Commission's public hearing on the proposed development agreement shall be conducted in accordance with the procedure for the conduct of reclassification hearings as provided in subsections (b) and (c) of Section 306.4 of the City Planning Code. Such public hearing on the proposed development agreement shall be held prior to or concurrently with the public hearing for consideration of any other Commission action deemed necessary to the approval or implementation of the proposed development agreement, unless the Commission determines, after a duly noticed public hearing pursuant to Section 56.8, that proceeding in a different manner would further the public interest; provided, however, that any required action under the California Environmental Quality Act shall not be affected by this Section. (Added by Ord. 372-88, App. 8/10/88)

SEC. 56.10. DEVELOPMENT AGREEMENT NEGOTIATION REPORT AND DOCUMENTS. (a) **Report.** The Director shall prepare a report on development agreement negotiations between the applicant and the City and County of San Francisco (City), which report shall be distributed to the Commission and Board of Supervisors, and shall be available for public review 20 days prior to the first public hearing on the proposed development agreement. Said report shall include, for each

negotiation session between the applicant and the City: (1) an attendance list; (2) a summary of the topics discussed; and (3) a notation as to any



terms and conditions of the development agreement agreed upon between the applicant and the City.

(b) **Documents.** The Director shall (1) maintain a file containing documents exchanged between the applicant/developer and the City's executive offices and departments; and (2) endeavor to obtain copies and maintain a list of all correspondence which executive offices and departments received from and sent to the public relating to the development agreement. The Director shall make said documents and the correspondence list available for public review 20 days prior to the first public hearing on the proposed development agreement.

(c) **Update of Report, Documents, and Correspondence List.** The Director shall update the negotiation session report and the correspondence list, and continue to maintain a file of documents exchanged between the applicant/developer and the City until a development agreement is finally approved. The Director shall make the updated report, correspondence list, and documents available to the public at least five working days before each public hearing on the proposed development agreement.

(d) **Remedies.** No action, inaction or recommendation regarding the proposed development agreement shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect or omission ("error") which may occur with respect to City compliance with this Section 56.10. This section is not intended to affect rights and remedies with respect to public records otherwise provided by law. (Added by Ord. 372-88, App. 8/10/88)

SEC. 56.11. COLLATERAL AGREEMENTS. (a) **Filing.** In order to qualify for consideration under the provisions of this section, the party to the collateral agreement seeking such consideration must: (1) submit a copy of the executed collateral agreement to the Director, (2) identify the specific terms and conditions of said collateral agreement which said party believes are necessary to achieve the public purposes sought to be achieved by the City and County through the development agreement process, and (3) provide contemporaneous notice to any other party or parties to the collateral agreement or the development agreement that a request for consideration pursuant to this section was filed. The Director shall forward copies of all collateral agreements received to the City Attorney's Office for review.

(b) **Recommendation of the Director Prior to the First Public Hearing on the Proposed Development Agreement.**

(1) The Director is obligated to consider and make a recommendation only as to those collateral agreements which satisfy the provisions of Section 56.11(a) above, and which are received by the Director within seven days after the date of publication of notice of the first hearing on the proposed development agreement. The Director shall consider those collateral agreements which are on the list provided pursuant to Section 56.11(d) below.

(2) With respect to collateral agreements received pursuant to the provisions set forth above, the Director shall prepare a report to the Commission on said collateral agreements. If the Director finds that applicant compliance with certain specified terms or conditions of said collateral agreements is necessary to achieve the public purposes sought by the City through the development agreement process, then the Director shall recommend that such terms or conditions be incorporated

into the proposed development agreement. If the Director recommends incorporation into the development agreement of any terms or conditions of any collateral agreements, then the Director's report shall also note whether the other party or parties to the collateral agreement or proposed development agreement objects, and the basis for that objection.

(3) The provisions of this section are not intended to limit the power of the Commission or the Board to amend the proposed development agreement to incorporate terms or conditions of collateral agreements.

(c) **Annual Recommendation of the Director.** After execution of a development agreement,

(1) The Director shall consider and make a recommendation as to those collateral agreements which satisfy the provisions of Section 56.11(a) above, and which are received 30 days prior to the date scheduled for periodic review, as determined pursuant to Section 56.17(a). The Director shall consider those collateral agreements which are on the list provided pursuant to Section 56.11 (d) below.

(2) With respect to collateral agreements received pursuant to the provisions set forth above, the Director shall prepare a report to the Commission on said collateral agreements. The Director shall also consult with the applicant/developer concerning said collateral agreements. If the Director finds that applicant/developer compliance with certain specified terms or conditions of said collateral agreements would substantially further attainment of the public purposes which were recited as inducement for entering into the development agreement, then the Director shall recommend that the Commission propose an amendment to the development agreement to incorporate said terms and conditions. If the Director recommends proposal of an amendment to incorporate into the development agreement specified terms or conditions of any collateral agreements, then the Director's report shall also note whether the other party or parties to the collateral agreement or development agreement objects, and the basis for that objection.

(d) **Applicant/Developer Disclosure of Collateral Agreements.**

(1) At least 21 days prior to the first hearing on the proposed development agreement, the applicant/developer shall provide the Director, for the Director's consideration, a list of all collateral agreements as defined in Section 56.3(c) that have been entered into by the applicant/developer.

(2) At least 30 days prior to the date scheduled for periodic review pursuant to Section 56.17(a), the applicant/developer shall provide the Director, for the Director's consideration, an update to the list prepared pursuant to Subsection (d)(1) above, or any previous list prepared pursuant to this Subsection (d)(2), as applicable, identifying all such collateral agreements entered into subsequent to the date of the first list, or subsequent updates, as appropriate. (Added by Ord. 372-88, App. 8/10/88)

SEC. 56.12. IRREGULARITY IN PROCEEDINGS. No action, inaction or recommendation regarding the proposed development agreement or any proposed amendment shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect or omission ("error") as to any matter pertaining to the application, notice, finding, record, hearing, report, summary, recommendation, or any matters of procedure whatever unless after an examination of the entire record, the court is of the opinion that the error complained of was

prejudicial and that by reason of the error the complaining party sustained and suffered substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is no presumption that error is prejudicial or that injury resulted if error is shown. (Added by Ord. 372-88, App. 8/10/88)

SEC. 56.13. DETERMINATION BY COMMISSION. (a) **Public Hearing.** The Commission shall hold a public hearing to consider and act on a proposed development agreement after providing notice as required under Section 56.8.

(b) **Recommendations to Board of Supervisors.** Following the public hearing, the Commission may approve or disapprove the proposed development agreement, or may modify the proposed development agreement as it determines appropriate. The Commission shall make its final recommendation to the Board of Supervisors which shall include the Commission's determination of whether the development agreement proposed is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable area or specific plan, and the priority policies enumerated in City Planning Code Section 101.1. The decision of the Commission shall be rendered within 90 days from the date of conclusion of the hearing; failure of the Commission to act within the prescribed time shall be deemed to constitute disapproval. (Added by Ord. 372-88, App. 8/10/88)

SEC. 56.14. DECISION BY BOARD OF SUPERVISORS. (a) **Action by Board of Supervisors.** The Board of Supervisors shall hold a public hearing on the proposed development agreement approved by the Commission. After the Board of Supervisors completes its public hearing, it may approve or disapprove the proposed development agreement recommended by the Commission. If the Commission disapproves the proposed development agreement, that decision shall be final unless the applicant/developer appeals the Commission's determination to the Board of Supervisors. The applicant/developer may appeal by filing a letter with the Clerk of the Board of Supervisors within 10 days following the Commission's disapproval of the proposed development agreement. The procedures for the Board's hearing and decision shall be the same as those set forth in City Planning Code Sections 308.1(c) and 308.1(d) with respect to an appeal of a Commission disapproval of a City Planning Code amendment initiated by application of one or more interested property owners.

(b) **Material Modification of the Commission's Recommended Development Agreement.** The Board of Supervisors may adopt a motion proposing a material modification to a development agreement recommended by the Commission, as defined in Section 56.3 herein. In such event, the material modification must be referred back to the Commission for report and recommendation pursuant to the provisions of Subdivision (c) below. However, if the Commission previously considered and specifically rejected the proposed material modification, then such modification need not be referred back to the Commission. The Board of Supervisors may adopt any minor modification to the proposed development agreement recommended by the Commission which it determines appropriate without referring the proposal back to the Commission.

(c) **Consideration of Material Modification By the Commission.** The Commission shall hold a public hearing and render a decision on any proposed material modification forwarded to the Commission by motion of the Board within

90 days from the date of referral of the proposed modification by the Board to the Commission; provided, however, if the Commission has not acted upon and returned the proposed material modification within such 90 day period, the proposal shall be deemed disapproved by the Commission unless the Board, by resolution, extends the prescribed time within which the Commission is to render its decision.

(d) **Effect of Commission Action on Proposed Material Modification.** The Board of Supervisors shall hold public hearing to consider the Commission's action on the proposed material modification. If the Commission approves the Board's proposed material modification, the Board may adopt the modification to the agreement by majority vote. If the Commission disapproves the Board's proposed material modification, or has previously specifically rejected the proposed material modification, then the Board may adopt the material modification to the development agreement by a majority vote, unless said modification would reclassify property or would establish, abolish, or modify a setback line, in which case the modification may be adopted by the Board only by a vote of not less than $\frac{2}{3}$ of all of the members of said Board.

(e) **Consistency With General and Specific Plans.** The Board of Supervisors may not approve the development agreement unless it receives the Commission's determination that the agreement is consistent with the Master Plan, any applicable area or specific plan and the Priority Policies enumerated in City Planning Section 101.1.

(f) **Approval of Development Agreement.** If the Board of Supervisors approves the development agreement, it shall do so by the adoption of an ordinance. The Board of Supervisors may not vote on the development agreement ordinance on second reading unless the final version of the development agreement ordinance is available for public review at least two working days prior to the second reading. The development agreement shall take effect upon its execution by all parties following the effective date of the ordinance. (Added by Ord. 372-88, App. 8/10/88; amended by Ord. 59-91, App. 2/27/91)

SEC. 56.15. AMENDMENT AND TERMINATION OF AN EXECUTED DEVELOPMENT AGREEMENT BY MUTUAL CONSENT. (a) The development agreement may further define the extent to which changes in the project will require an amendment to the development agreement.

(b) Either the applicant/developer or the City and County may propose an amendment to, or cancellation in whole or in part of, any development agreement. Any amendment or cancellation shall be by mutual consent of the parties, except as otherwise provided in the development agreement or in Section 56.16.

(c) The procedure for proposing and adopting an amendment which constitutes (1) a material modification, (2) the termination in whole or in part of the development agreement, or (3) a minor modification which the Commission or Board has requested to review pursuant to subsection (d) below, shall be the same as the procedure for entering into an agreement in the first instance, including, but not limited to, the procedures described in Section 56.4, above.

(d) Any proposed amendment or modification to the development agreement which would constitute a minor modification shall not require a noticed public hearing before the parties may execute an amendment to the agreement. The Director may

commit to a minor modification on behalf of the City if the following conditions are satisfied:

(1) The Director has reached agreement with the other party or parties to the development agreement regarding the modification;

(2) The Director has: (i) notified the Commission and the Board; (ii) caused notice of the amendment to be published in the official newspaper and included on the Commission calendar; (iii) caused notice to be mailed to the parties to a collateral agreement if specific terms or conditions of said collateral agreement were incorporated into the development agreement and said terms or conditions would be modified by said minor modification; and (iv) caused notice to be mailed to persons who request to be so notified; and

(3) No member of either the Board or Commission has requested an opportunity to review and consider the minor modification within 14 days following receipt of the Director's notice. Upon expiration of the 14-day period, in the event that neither entity requests a hearing, the decision of the Director shall be final. (Added by Ord. 372-88, App. 8/10/88; amended by Ord. 59-91, App. 2/27/91)

SEC. 56.16. RECORDATION OF DEVELOPMENT AGREEMENTS AMENDMENT OR TERMINATION. (a) Within 10 days after the execution of the development agreement, or any amendments thereto, the Clerk of the Board of Supervisors shall have the agreement recorded with the County Recorder.

(b) If the parties to the agreement or their successors in interest amend or terminate the agreement as provided herein, or if the Board of Supervisors terminates or modifies the agreement as provided herein for failure of the applicant/developer to comply in good faith with the terms or conditions of the agreement, the Clerk of the Board of Supervisors shall have notice of such action recorded with the County Recorder. (Added by Ord. 372-88, App. 8/10/88; amended by Ord. 59-91, App. 2/27/91)

SEC. 56.17. PERIODIC REVIEW. (a) **Time for and Initiation of Review.** The Director shall conduct a review in order to ascertain whether the applicant/developer has in good faith complied with the development agreement. The review process shall commence at the beginning of the second week of January following final adoption of a development agreement, and at the same time each year thereafter for as long as the agreement is in effect. The applicant/developer shall provide the Director with such information as is necessary for purposes of the compliance review.

Prior to commencing review, the Director shall provide written notification to any party to a collateral agreement which the Director is aware of pursuant to Sections 56.11(a) and (d), above. Said notice shall summarize the periodic review process, advising recipients of the opportunity to provide information regarding compliance with the development agreement. Upon request, the Director shall make reasonable attempts to consult with any party to a collateral agreement if specified terms and conditions of said agreement have been incorporated into the development agreement. Any report submitted to the Director by any party to a collateral agreement, if the terms or conditions of said collateral agreement have been incorporated into the development agreement, shall be transmitted to the Commission and/or Board of Supervisors.

(b) **Finding of Compliance by Director.** If the Director finds on the basis of substantial evidence, that the applicant/developer has complied in good faith with the terms and conditions of the agreement, the Director shall notify the Commission and the Board of Supervisors of such determination, and shall at the same time cause notice of the determination to be published in the official newspaper and included on the Commission calendar. If no member of the Commission or the Board of Supervisors requests a public hearing to review the Director's determination within 14 days of receipt of the Director's notice, the Director's determination shall be final. In such event, the Director shall issue a certificate of compliance, which shall be in recordable form and may be recorded by the developer in the official records. The issuance of a certificate of compliance by the Director shall conclude the review for the applicable period.

(c) **Public Hearing Required.** If the Director determines on the basis of substantial evidence that the applicant/developer has not complied in good faith with the terms and conditions of the development agreement, or otherwise determines that the public interest would be served by further review, or if a member of the Commission or Board of Supervisors requests further review pursuant to Subsection (b) above, the Director shall make a report to the Commission which shall conduct a public hearing on the matter. Any such public hearing must be held no sooner than 30 days, and no later than 60 days, after the Commission has received the Director's report. The Director shall provide to the applicant/developer (1) written notice of the public hearing scheduled before the Commission at least 30 days prior to the date of the hearing, and (2) a copy of the Director's report to the Commission on the date the report is issued.

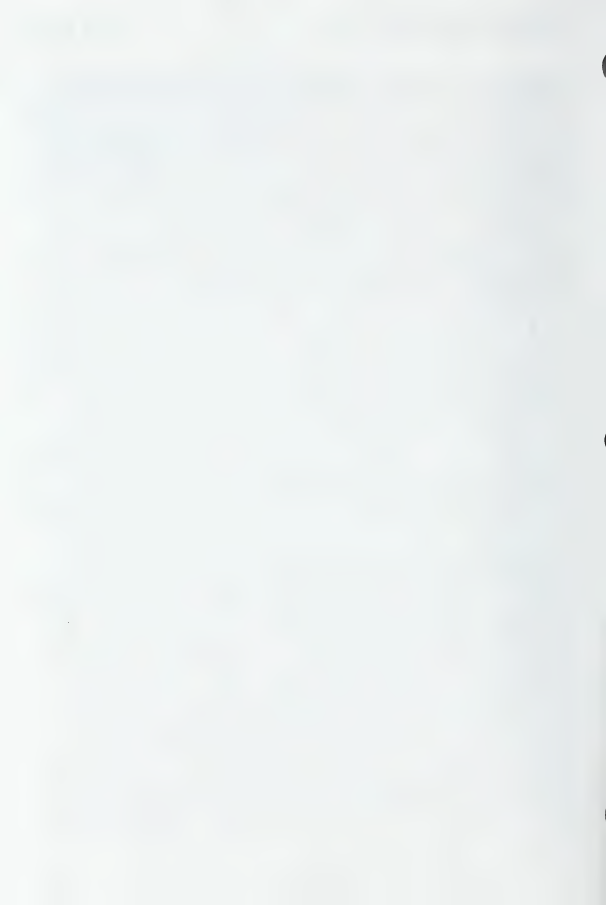
(d) **Findings Upon Public Hearing.** At the public hearing, the applicant/developer must demonstrate good faith compliance with the terms of the development agreement. The Commission shall determine upon the basis of substantial evidence whether the applicant/developer has complied in good faith with the terms of the development agreement.

(e) **Finding of Compliance by Commission.** If the Commission, after a hearing, determines on the basis of substantial evidence that the applicant/developer has complied in good faith with the terms and conditions of the agreement during the period under review, the Commission shall instruct the Director to issue a certificate of compliance, which shall be in recordable form, may be recorded by the applicant/developer in the official records, and which shall conclude the review for that period; provided that the certificate shall not be issued until after the time has run for the Board to review the determination. Such determination shall be reported to the Board of Supervisors. Notice of such determination shall be transmitted to the Clerk of the Board of Supervisors within three days following the determination. The Board may adopt a motion by majority vote to review the decision of the Planning Commission within 10 days of the date after the transmittal. A public hearing shall be held within 30 days after the date that the motion was adopted by the Board. The Board shall review all evidence and testimony presented to the Planning Commission, as well as any new evidence and testimony presented at or before the public hearing. If the Board votes to overrule the determination of the Planning Commission, and refuses to approve issuance of a certificate of compliance, the Board shall adopt written findings in support of its determination within 10 days following the date of such

determination. If the Board agrees with the determination of the Planning Commission, the Board shall notify the Planning Director to issue the certificate of compliance.

(f) **Finding of Failure of Compliance.** If the Commission after a public hearing determines on the basis of substantial evidence that the applicant/developer has not complied in good faith with the terms and conditions of the agreement during the period under review, the Commission shall either (1) extend the time for compliance upon a showing of good cause; or (2) shall initiate proceedings to modify or terminate the agreement pursuant to Section 56.18. (Added by Ord. 372-88, App. 8/10/88; amended by Ord. 59-91, App. 2/27/91; Ord. 287-96, App. 7/12/96)

SEC. 56.18. MODIFICATION OR TERMINATION. (a) If the Commission, upon a finding pursuant to Subdivision (f) of Section 56.17, determines that modification of the agreement is appropriate or that the agreement should be terminated, the Commission shall notify the applicant/developer in writing 30



days prior to any public hearing by the Board of Supervisors on the Commission's recommendations.

(b) **Modification or Termination.** If the Commission, upon a finding pursuant to Subdivision (f) of Section 56.17, approves and recommends a modification or termination of the agreement, the Board of Supervisors shall hold a public hearing to consider and determine whether to adopt the Commission recommendation. The procedures governing Board action shall be the same as those applicable to the initial adoption of a development agreement; provided, however, that consent of the applicant/developer is not required for termination under this section. (Added by Ord. 372-88, App. 8/10/88)

SEC. 56.19. LIMITATION ON ACTIONS. (a) Any decision of the Board pursuant to this Chapter shall be final. Any court action or proceeding to attack, review, set aside, void or annul any final decision or determination by the Board shall be commenced within 90 days after (1) the date such decision or determination is final, or (2) when acting by ordinance, after the ordinance is signed by the Mayor, or is otherwise finally approved.

(b) Any court action or proceeding to attack, review, set aside, void or annul any final decision or determination by (1) the Director pursuant to Section 56.15(d)(iii), or (2) the Commission pursuant to Section 56.17(e) shall be commenced within 90 days after said decision is final. (Added by Ord. 372-88, App. 8/10/88)

SEC. 56.20. FEE. In order to defray the cost to the City and County of San Francisco of preparing, adopting, and amending a development agreement, a fee shall be charged and collected in accord with the procedures described below:

(a) **Cost Estimate and Application Report.** The reasonable costs to the various departments of the City and County of San Francisco including, but not limited to, the Department of City Planning, the Department of Public Works, the Mayor's Office of Housing and Economic Development, the Real Estate Department and the City Attorney's Office for staff time, necessary consultant services and associated costs of materials and administration will vary according to the size and complexity of the project. Accordingly, upon receipt of an application for a development agreement, the Department of City Planning, after consultation with the applicant/developer, any other parties identified in the application as parties to the proposed development agreement, and the affected City and County departments, shall prepare an estimated budget of the reasonable costs to be incurred by the City and County (1) in the preparation and adoption of the proposed development agreement, and (2) in the preparation of related documents where the costs incurred are not fully funded through other City fees or funds; provided, however, that if the projected time schedule exceeds one year, then the estimated budget shall be prepared for the initial 12-month period only, and the estimated budgets for any subsequent 12-month time periods shall be prepared prior to the end of the prior 12-month period.

The Director shall also prepare a report for the Commission and Board describing the application, the anticipated public benefits listed in the application pursuant to Section 56.4(b), and the projected time schedule for development agreement negotiations.

(b) **Commission and Board of Supervisors Consideration.** The Commission shall recommend to the Board of Supervisors that a fee be imposed of a specified amount after reviewing the cost estimate prepared by the Director and conducting a public hearing pursuant to Section 56.4(c). If the Board of Supervisors approves the fee amount by resolution, the fee shall be paid within 30 days after the effective date of the resolution. The fee shall be paid in a single installment or, at the discretion of the Director, in four equal installments, payable periodically over the estimated time frame for which the estimated budget has been prepared, with the first installment due within 30 days after the effective date of the fee resolution.

(c) **Deposit.** The applicant/developer may prepay up to 50 percent of the amount of the fee (as calculated in the Director's estimated budget) into a Development Agreement Fund established for that purpose to enable the affected City Departments and agencies to begin work on the application. Such funds shall be deemed appropriated for the purposes identified in the cost estimate, and shall be credited against the final fee amount specified in the fee resolution if such resolution is ultimately adopted by the Board of Supervisors. If the Board fails to adopt such fee resolution, then the Controller shall return any prepaid funds remaining unexpended or unobligated to the applicant/developer. If the Board approves a fee amount which is less than the amount which the applicant/developer prepaid, then the Controller shall return that portion of the difference between the fee amount and the prepaid funds which remains unexpended or unobligated to the applicant/developer.

(d) **Development Agreement Fund.** There is hereby created a Development Agreement Fund wherein all funds received under the provisions of this section shall be deposited. All expenditures from the Fund shall be for purposes of reviewing the application for, or proposed material modification to, a development agreement and preparing the documents necessary to the approval of the development agreement, or a material modification thereto. Up to 50 percent of the annual cost estimate is hereby deemed appropriated for such purposes if the applicant/developer chooses to prepay such amount pursuant to Subsection (c) above. All other funds are subject to the budget and fiscal powers of the Board of Supervisors. Interest earned on such amounts deposited in said Fund shall accrue to the Fund for the purposes set forth herein. Upon the execution of a development agreement, or withdrawal by an applicant/developer of its application, any unexpended or unobligated portion of the fee paid by the applicant/developer shall be returned to the applicant/developer.

(e) **Waiver for Affordable Housing.** The Board of Supervisors may, by resolution, waive all or a portion of the fee required pursuant to this section for affordable housing developments, as that term is defined in Section 56.3, only if it finds that such waiver is necessary to achieve such affordable housing development.

(f) **Other Fees.** Payment of fees charged under this section does not waive the fee requirements of other ordinances. The fee provisions set forth herein are not intended to address fees or funding for parties to collateral agreements. (Added by Ord. 372-88, App. 8/10/88)

CHAPTER 57**FILM AND VIDEO ARTS COMMISSION**

Sec. 57.1.	Definitions.
Sec. 57.2.	Establishment of Commission; Appointment of Commissioners; Qualifications; Terms of Office; Compensation.
Sec. 57.3.	Powers and Duties.
Sec. 57.4.	Meetings.
Sec. 57.5.	Authorization to Enter Into Use Agreements and Coordinate City Departments Regarding Film Companies; Consent of Relevant Departments; Cost Recovery.
Sec. 57.6.	Requirements for Film Companies.
Sec. 57.7.	Authority and Duties of the Chair of the Commission.
Sec. 57.8.	Authority and Duties of Executive Director.
Sec. 57.9.	Rules and Regulations.
Sec. 57.10.	Establishment of Film Production Special Fund; Expenditures; Continuous Appropriation.
Sec. 57.11.	Exceptions.
Sec. 57.12.	City Undertaking Limited to Promotion of General Welfare.
Sec. 57.13.	Severability.

SEC. 57.1. DEFINITIONS. (a) "City" means the City and County of San Francisco.

(b) "Film" means feature motion pictures, video tapes, television programs, commercials, still photography, documentaries, travelogues, music videos and other visual art forms; provided however, that "film" shall not mean films or video tapes for private-family use or films by any news service or similar entity engaged in on-the-spot broadcasting of news events.

(c) "Film company" means any individual, corporation, firm, partnership, or other organization however organized engaged in film production.

(d) "Film production" means the activity of making a film for commercial or noncommercial property where that activity (1) requires the use of City employees or equipment or (2) interferes to any substantial degree with the ordinary use and enjoyment of public streets or sidewalks or other property under the jurisdiction of the City.

(e) "Commission" means the Film and Video Arts Commission of the City and County of San Francisco. (Added by Ord. 464-88, App. 10/12/88; amended by Ord. 425-89, App. 11/21/89)

SEC. 57.2. ESTABLISHMENT OF COMMISSION; APPOINTMENT OF COMMISSIONERS; QUALIFICATIONS; TERMS OF OFFICE; COMPENSATION. (a) **Establishment of Commission.** A Film and Video Arts Commission for the City and County of San Francisco (referred to hereafter in this Chapter as "Commission") is hereby created consisting of eleven (11) members.

(b) **Appointment of Commissioners; Qualifications.** The members of the Commission shall be appointed by and serve at the pleasure of the Mayor. At least

six members of the Commission shall be residents of the City and County of San Francisco. The Commission shall be composed of outstanding members of the community. The membership of the Commission may include members who have experience in areas such as: Performing and Creative Arts, Production, Film/Video or Sound Technology, Services and Facilities, Education, Presentation and Producing, Interactive Multimedia, and shall be broadly representative of ethnic, racial, gender, age and sexual orientation groups, and shall otherwise reflect the diversity of the City and County. The President of the Art Commission of the City and County shall be invited to serve as a nonvoting, ex-officio member of the Film and Video Arts Commission.

(c) **Term of Office.** Within 60 days of the effective date of this amendment to Chapter 57, the Mayor shall appoint 11 Commissioners. Of the 11 Commissioners appointed, three shall serve for a term of two years, four shall serve for a term of three years, and four shall serve for a term of four years. The term of office of each Commissioner shall be determined by the drawing of lots at the first meeting of the Commission after the appointment of the 11 Commissioners. Thereafter, members shall be appointed for a term of office of four years, except that all of the vacancies occurring during a term shall be filled for the unexpired term.

(d) **Compensation.** Members of the Commission shall not be compensated for their service as members of the Commission. Members of the Commission may be reimbursed for expenses incurred as members of the Commission resulting from their authorized activities on behalf of the Commission.

(e) **Selection of Chair.** The Commission shall, annually, select a Chair who shall serve for a term of one year. The Commission may reappoint a Chair to serve additional terms.

(f) **Executive Director.** The Commission shall appoint an Executive Director of the Commission who shall serve at the Commission's pleasure. The Executive Director shall act as the department head and appointing officer of the Commission pursuant to Charter Section 3.501. This position is intended to replace the position of Mayor's Office Film Coordinator, and shall initially be compensated at the same rate as the Mayor's Office Film Coordinator was being compensated. This position shall be compensated from the same source of monies as was the Mayor's Office Film Coordinator. The Executive Director shall supervise the Commission's staff, and shall have other duties and responsibilities as provided in this Chapter. (Added by Ord. 425-89, App. 11/21/89; amended by Ord. 358-91, App. 10/2/91)

SEC. 57.3. POWERS AND DUTIES. The Commission shall develop, recognize, and promote film and video activities in the City and County. The members shall work together and explore and promote long-term goals for filmmaking as a major emphasis of the City's economic and cultural base, and encourage the recognition of film and video arts as an artform with widespread economic components. The powers of the Commission shall include, but not be limited to:

- (a) The stimulation of community awareness of the artforms of film and video;
- (b) The promotion of long-range investment in projects originating in the San Francisco area, such as scripts, film proposals, treatments, and shorter works;
- (c) The coordination of the awareness of film and video arts and economic opportunities throughout the school systems so as to provide training at the universi-

ties and community colleges for technicians, craft skills, and creative talent in the area;

(d) The coordination of communications among the various sectors of the film and video industry and cultivation of outreach so as to raise the public relations image. The Commission shall work to maintain the communication of issues and concerns, and to present, out of the City and abroad, the major assets and advances of San Francisco;

(e) The acceptance of gifts, devises and bequests as provided in Charter Section 3.500(d).

(f) The maintenance of liaison with other specific interest groups, councils, organizations, and institutions, and the maintenance of liaison with the Art Commission from the perspective of film and video arts;

(g) Providing perspective for both the Mayor and the Board of Supervisors with respect to long-range promotion, development and planning for a significant film and video arts base in San Francisco. (Added by Ord. 425-89, App. 11/21/89; amended by Ord. 358-91, App. 10/2/91)

SEC. 57.4. MEETINGS. Meetings of the Commission shall be convened by the Chair of the Commission. Meetings shall be held on a regular basis, to be determined by the Commission. (Added by Ord. 425-89, App. 11/21/89; amended by Ord. 358-91, App. 10/2/91)

SEC. 57.5. AUTHORIZATION TO ENTER INTO USE AGREEMENTS AND COORDINATE CITY DEPARTMENTS REGARDING FILM COMPANIES; CONSENT OF RELEVANT DEPARTMENTS; COST RECOVERY. (a)

Use Agreements; Deposit of Funds. The Executive Director may enter into use agreements with organizations seeking to engage in film productions. The Executive Director shall be the sole City representative authorized to negotiate use agreements. Such agreements shall, at a minimum, provide for the full recovery of costs incurred by the various City departments in providing the use of City employees, equipment and rental facilities or rental properties. Funds to reimburse City departments for costs incurred by those departments for the deployment of personnel or equipment or use of rental facilities or rental properties shall be paid directly to those departments for deposit subject to the budget and fiscal provisions of the Charter.

(b) **Consent of Departments or Mayor.** Use agreements entered into pursuant to this Section shall provide that where film productions are to take place on property under the jurisdiction of City departments, the permission to use such property is subject to the consent of the department head or his or her designee or the Mayor or Mayor's designee.

(c) **Schedule of Costs.** In addition to the reimbursement of City departments for the costs incurred by those departments in deploying personnel or equipment, the following daily charges shall be assessed to film companies seeking to engage in film productions:

Videos, documentaries, print, travel or corporate/industrial films	\$100
Commercials	\$200
Television programs or feature films	\$300
Student, educational or nonprofit productions	No fee

Fifty percent of the revenue generated by such charges shall be deposited in the Film Production Special Fund. The remaining 50 percent of such funds shall be deposited in a reserve fund to be established by the Controller and held in reserve for City departments that incur costs related to film productions. The Executive Director shall determine the apportionment of reserved funds for these various departments. Such departments may use these funds subject to the budgetary and fiscal provisions of the Charter, provided that funds earmarked for the Municipal Railway shall be deposited to the Public Utilities Award Fund (Account No. 739771). (Added by Ord. 464-88, App. 10/12/88; amended by Ord. 425-89, App. 11/21/89; Ord. 358-91, App. 10/2/91; Ord. 287-96, App. 7/12/96)

SEC. 57.6. REQUIREMENTS FOR FILM COMPANIES. (a) **Use Agreements.** All film companies seeking to engage in film productions shall enter into use agreements with the Executive Director.

(b) **Insurance and Indemnification.** As a condition of engaging in film productions, concurrently with entering into a use agreement with the City for the utilization of City property or employees, film companies shall file with the Executive Director documentation of insurance and indemnification holding the City and County harmless from any liability. The amounts of such insurance and indemnification, and the suitability of the insuring entity, shall be determined by the City's Risk Manager in coordination with the Executive Director and other City departments. (Added by Ord. 464-88, App. 10/12/88; amended by Ord. 425-89, App. 11/21/89; Ord. 358-91, App. 10/2/91)

SEC. 57.7. AUTHORITY AND DUTIES OF THE CHAIR OF THE COMMISSION. In addition to any other authority vested in or duty charged to him or her, the Chair of the Commission shall have the duty and authority to convene meetings of the Commission, and to maintain liaison with the Art Commission from the perspective of film and video arts. (Added by Ord. 425-89, App. 11/21/89; amended by Ord. 358-91, App. 10/2/91)

SEC. 57.8. AUTHORITY AND DUTIES OF EXECUTIVE DIRECTOR. In addition to any other authority vested in or duty charged to him or her, the Executive Director shall serve as the liaison between the film companies and the various City departments. In performing his or her duties as liaison, the Executive Director shall assist the film companies in locating suitable locations and shall coordinate the efforts of the various City departments in connection with the production of motion pictures, films, television programs, music videos and other visual arts utilizing City property or employees. The Executive Director shall also be responsible for coordinating any and all film permits required by the City for film and video productions in the City. (Added by Ord. 464-88, App. 10/12/88; amended by Ord. 425-89, App. 11/21/89; Ord. 358-91, App. 10/2/91)

SEC. 57.9. RULES AND REGULATIONS. The Commission may adopt rules and regulations to implement and further the purposes of this Chapter. (Added by Ord. 464-88, App. 10/12/88; amended by Ord. 425-89, App. 11/21/89; Ord. 358-91, App. 10/2/91)

SEC. 57.10. ESTABLISHMENT OF FILM PRODUCTION SPECIAL FUND; EXPENDITURES; CONTINUOUS APPROPRIATION. There is hereby created and established a special fund to be known as the Film Production Special Fund. Said fund shall be used exclusively for administering this Chapter and promoting San Francisco as a location for film productions. All expenditures shall be approved by the Commission. All funds deposited in said special fund shall be deemed continuously appropriated for the purposes set forth in this section and the Controller shall make such funds available for expenditure.

Any unexpended balances remaining in fund at the close of any fiscal year shall be deemed to have been provided for a specific purpose within the meaning of Section 6.306 of the Charter, and shall be carried forward and accumulated in said fund for the purposes recited herein.

The Commission shall prepare and file with the Board of Supervisors, at the same time the Commission files with the Mayor a proposed fiscal year budget, an annual report that shall detail all revenues and expenditures of the Commission during the immediately preceding fiscal year. (Added by Ord. 464-88, App. 10/12/88; amended by Ord. 425-89, App. 11/21/89; Ord. 358-91, App. 10/2/91)

SEC. 57.11. EXCEPTIONS. This Chapter shall not apply to film or photographic activities occurring in the buildings or on the grounds of the San Francisco War Memorial Performing Arts Center or San Francisco Convention Facilities or where inconsistent with State law, the Charter or contractual agreements. (Added by Ord. 464-88, App. 10/12/88; amended by Ord. 425-89, App. 11/21/89; Ord. 358-91, App. 10/2/91)

SEC. 57.12. CITY UNDERTAKING LIMITED TO PROMOTION OF GENERAL WELFARE. In undertaking the adoption and enforcement of this Chapter, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers or employees, an obligation for breach of which the City is liable in money damages to any person who claims that such breach proximately caused injury. (Added by Ord. 464-88, App. 10/12/88; amended by Ord. 425-89, App. 11/21/89; Ord. 358-91, App. 10/2/91)

SEC. 57.13. SEVERABILITY. If any part of this Chapter, or the application thereof, is held to be invalid, the remainder of this Chapter shall not be affected thereby, and this Chapter shall otherwise continue in full force and effect. To this end, the provisions of this Chapter, and each of them, is severable. (Added by Ord. 464-88, App. 10/12/88; amended by Ord. 425-89, App. 11/21/89; Ord. 358-91, App. 10/2/91)



CHAPTER 58

CONFLICT OF INTEREST CODE

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SEC. 58.1. ADOPTION OF STATE CODE. The provisions of Regulation 18730 of the Fair Political Practices Commission (2 Cal. Admin. Code § 18730), as the regulation reads on the date this ordinance is adopted and as the regulation may be amended from time to time by the Commission, are hereby adopted and incorporated herein by this reference as the Conflict of Interest Code for agencies of the City and County of San Francisco listed in this Chapter, commencing with Section 58.100. (Added by Ord. 3-90, App. 1/5/90)

SEC. 58.2. COPIES OF REGULATION 18730. Three copies of Regulation 18730 shall be maintained in the office of the Ethics Commission. (Added by Ord. 3-90, App. 1/5/90; amended by Ord. 386-95, App. 12/14/95)

SEC. 58.3. FILING REQUIREMENTS. Each officer and employee of the City and County of San Francisco holding a position designated in this Chapter, other than those officials identified in Section 58.600, shall file statements disclosing the information required by the disclosure categories set forth in this chapter, on such forms as may be specified by the California Fair Political Practices Commission (Form 730 unless otherwise provided by the Commission), and at such times required by Regulation 18730. A copy of the forms to be used shall be supplied by the Ethics Commission to each filing officer. Every officer and employee holding a position designated in this Chapter shall retain his or her filing obligations, notwithstanding any reclassification or title change that may occur in the future as to the same job duties. (Added by Ord. 3-90, App. 1/5/90; amended by Ord. 311-92, App. 10/9/92; Ord. 386-95, App. 12/14/95)

SEC. 58.4. FILING OFFICERS. With the exception of those officials identified in Section 58.600, persons holding designated positions shall file their Statements of Economic Interest with the filing officers designated in this Section.

(a) Members of commissions, boards, and committees as well as department heads, shall file their statements with the Ethics Commission.

(b) The agency heads of the Unified School District, the Community College District, the San Francisco Housing Authority, the Redevelopment Agency, the Office of Citizen Complaints, and the Law Library shall file their statements with the Ethics Commission.

(c) Members of the Civil Grand Jury shall file with the Executive Officer of the Superior Court.

(d) All other persons holding designated positions shall file with their respective department head or the executive director of the agency.

(e) In instances where the proper filing officer for a particular designated position is unclear, the Ethics Commission may designate the filing officer. (Added by Ord. 3-90, App. 1/5/90; amended by Ord. 311-92, App. 10/9/92; Ord. 386-95, App. 12/14/95; Ord. 345-98, App. 11/19/98)

SEC. 58.5. FILING OFFICER REPORTS. On or before April 10th of each year, every filing officer shall submit a written report to the Ethics Commission setting forth the names of those persons who are required to file an annual statement with that filing officer under this Chapter but have failed to do so, or a report stating that all such persons have filed. (Added by Ord. 3-90, App. 1/5/90; amended by Ord. 386-95, App. 12/14/95)

SEC. 58.6. NOTICE OF APPOINTMENT AND RESIGNATION. Whenever the Mayor or a board or commission appoints a department head, or receives the resignation or retirement notice of a department head, the official or the secretary to the board or commission who makes the appointment or receives the resignation or retirement notice, shall promptly inform the Ethics Commission. The official or secretary shall also inform the department head of the necessity to file within 30 days on assuming office or leaving office statement of economic interests. Upon receiving notice of the appointment, or the resignation or retirement, of the department head, the Ethics Commission shall perform the required duties of the filing officer and obtain the required statement of economic interests. (Added by Ord. 3-90, App.

1/5/90; amended by Ord. 386-95, App. 12/14/95; Ord. 287-96, App. 7/12/96; Ord. 56-97, App. 3/6/97)

SEC. 58.7. DISCLOSURE CATEGORY 1. Unless otherwise specified, for each department or agency, Disclosure Category 1 shall read:

“Disclosure Category 1. Persons in this category shall disclose income from any source, interests in real property, investments, and all business positions in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management.”

(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 56-97, App. 3/6/97)

SEC. 58.8. DISCLOSURE CATEGORIES. For each agency of the City and County of San Francisco, disclosure categories shall include Category 1 as specified in Section 58.7, and such additional categories as may be included in the Sections of this Chapter applicable to each such agency. (Added by Ord. 3-90, App. 1/5/90)

SEC. 58.9. DEFINITIONS. As used in this chapter:

(a) “Political Reform Act” means the Political Reform Act of 1974, as said Act reads on the date this ordinance is adopted and as said Act may be amended from time to time.

(b) All other words used in this ordinance shall have the meanings ascribed to them by the Political Reform Act, if the Act provides a definition. (Added by Ord. 3-90, App. 1/5/90)

SEC. 58.105. COMMISSION ON THE AGING.

Designated Positions

Executive Director
Member, Commission on Aging
(Added by Ord. 3-90, App. 1/5/90)

Disclosure Categories

All 1

SEC. 58.110. AGRICULTURE, WEIGHTS AND MEASURES DEPARTMENT. Disclosure Category 2. Persons in this category shall disclose all investments and business positions in business entities, interests in real property, and income from sources subject to the regulatory, permit or licensing authority of the Department of Agriculture and Weights and Measures.

Designated Positions

Agricultural Commissioner/Sealer
Assistant Commissioner/Sealer
Farmers’ Market Manager
Agricultural Inspector
Weights and Measures Inspector
Public Service Trainee/Pest Detection Specialist
Public Service Trainee/Weights and Measures Trainee

Disclosure Categories

1
1
1
2
2
2
2

(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 56-97, App. 3/6/97)

SEC. 58.115. AIRPORTS COMMISSION. (a) Disclosure Category 2.

Persons in this category shall disclose all investments and business positions in business entities and income from any source which provides, or contracts with the City and County of San Francisco and its Airports Commission to provide, services, supplies, materials, machinery or equipment to the Airports Commission.

(b) Disclosure Category 3. Persons in this category shall disclose all investments and business positions in business entities, interests in real property, and income from any source subject to the regulatory, permit or licensing authority of the Airports Commission.

Designated Positions	Disclosure Categories
Airport Commissioners	1
Airport Director	1
Airport Deputy Directors	1
Secretary, Airport Commission	1
Chief Financial Officer	1
Chief Operating Officer	1
Director, Bureau of Community Affairs	1
Director, International Aviation Development	1
Assistant Deputy Directors	1
Associate Airport Deputy Directors	1
Airport Assistant Administrators	1
Airport Budget Managers	2, 3
Airport Communications Coordinators	2, 3
Airport Economic Planners	2, 3
Airport Facilities Service Managers	2, 3
Special Assistants XXII	1
Special Assistants XXI	1
Special Assistants XX	1
Special Assistants XIX	1
Special Assistants XVIII	1
Special Assistants XVII	1
Special Assistants XVI	1
Special Assistants XV	1
Special Assistants XIV	1
Airport Insurance Managers	2, 3
Airport Operations Superintendents	2, 3
Airport Parking Managers	2, 3
Airport Property Specialists	2, 3
Building Inspector/Quality Control Branch Head—FOM	2, 3
Chief of Systems	1
Consultants*	2, 3
Construction Inspectors	2, 3
Curator in Charge of Aviation Library	2, 3
Senior Museum Registrar	2, 3
Assistant Director, Exhibitions	2, 3
Electrical Inspectors	2, 3
Economic Planners	2, 3

Environmental Planners III	2, 3
Facilities Planning Managers	2, 3
Managers, Scheduling and Control	2, 3
Manager, Prevailing Wage	2, 3
Manager, Employment Development	2, 3
Manager, Customer Service	2, 3
Mechanical Inspectors	2, 3
Plumbing Inspectors	2, 3
Principal Architects	2, 3
Principal Civil Engineers	2, 3
Project Managers I	2, 3
Project Managers II	2, 3
Project Managers III	2, 3
Project Managers IV	2, 3
Senior Architects	2, 3
Senior Departmental Personnel Officers	2, 3
Senior Engineer/Scheduling & Control—FOM	2, 3
Superintendent of Maintenance—FOM	2, 3
Supervising Fiscal Officers	2, 3
Transportation Planner V, Bureau of Planning	1
Airport Operations Coordinators	1

* With respect to consultants, the Airport Director may determine in writing that a particular consultant is hired to perform a range of duties that are limited in scope and thus is not required to comply with the disclosure requirements described in this category. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Airport Director shall forward a copy of this determination to the Board of Supervisors. Nothing herein excuses any such consultant from any other provision of this Conflict of Interest Code. (Added by Ord. 3-90, App. 1/5/90; amended by Ord. 311-92, App. 10/9/92; Ord. 380-94, App. 11/10/94; Ord. 56-97, App. 3/6/97; Ord. 345-98, App. 11/19/98)

SEC. 58.120. ANIMAL CONTROL DEPARTMENT.

Designated Positions	Disclosure Categories
Executive Director	1
Deputy Director	1

(Added by Ord. 190-90, App. 5/24/90; amended by Ord. 311-92, App. 10/9/92)

SEC. 58.125. ASIAN ART MUSEUM. Disclosure Category 2. Persons in this category shall disclose all investments in, income from, and business positions in any business entity involved in the buying or selling of works of Asian art or in the business of installing or maintaining security systems, which do business in the jurisdiction, or which have done business in the jurisdiction in the past two years, or which may foreseeably do business in the jurisdiction in the future.

Designated Positions

Commissioner

Director

Chief Curator

Curator

(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 345-98, App. 11/19/98)

Disclosure Categories

All 2

SEC. 58.130. ART COMMISSION. Disclosure Category 2. Persons in this disclosure category shall disclose all investments and business positions in any business entity, and income from any source, which does business with the Art Commission, or has done business with the Art Commission within the two years prior to the date any disclosure statement must be filed, or which may foreseeably do business with the Art Commission in the future.

Disclosure Category 3. Persons in this disclosure category shall disclose all investments and business positions in any business entity, and income from any source, which is subject to the regulatory, permit or licensing authority of the Art Commission.

Designated Positions

Commissioners

Director of Cultural Affairs

Assistant Director

Curator

Curatorial Aide

Registrar

Street Artist Director

Street Artist Advisory Committee

Neighborhood Arts Program Director

Arts Education Officer

Special Assistant Cultural Facilities Management

Project Manager, Writers Corps

(Added by Ord. 190-90, App. 5/24/90; amended by Ord. 380-94, App. 11/10/94; Ord. 56-97, App. 3/6/97; Ord. 345-98, App. 11/19/98)

Disclosure Categories

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SEC. 58.135. ASSESSOR-RECORDER.**Designated Positions**

Assessor

Executive Assistant

Chief Assistant Assessor

Recorder

Chief Appraiser

Chief Personal Property Appraiser

Assistant Chief Real Property Appraiser

Assistant Chief Personal Property Auditor

Chief, Technical Services

Assistant Chief, Technical Services

Chief, Assessment Standards

Disclosure Categories

All 1

Principal Real Property Appraiser—Special Valuations
 Principal Real Property Appraiser
 Principal Personal Property Auditor
 Senior Real Property Appraiser
 Senior Personal Property Auditor
 Real Property Appraiser
 Real Property Appraiser Trainee
 Senior Manager Principal Accountant
 Personal Property Auditor
 Civil Engineer Associate
 Confidential Secretary to the Assessor

MIS

MIS Manager

MIS Specialist

(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 311-92, App. 10/9/92; Ord. 56-97, App. 3/6/97; Ord. 345-98, App. 11/19/98)

SEC. 58.145. BOARD OF SUPERVISORS. Disclosure Category 2. Persons in this category shall disclose all investments and business positions held in business entities, and income from any business entity, engaged in the development, manufacture, distribution, sale or lease of computer hardware or software.

Disclosure Category 3. Persons in this category shall disclose all interests in real property.

Designated Positions

Member, Board of Supervisors

Clerk of the Board

Budget Analyst

Member, Assessment Appeals Board

Alternate Member, Assessment Appeals Board

Hearing Officer, Assessment Appeals

Assessment Appeals Administrator

IS Administrator III

Legislative Assistant

Chief Legislative Analyst

Senior Legislative Analyst

Legislative Analyst

Constituent Liaison

(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 190-90, App. 5/24/90; Ord. 311-92, App. 10/9/92; Ord. 352-93, App. 11/12/93; Ord. 380-94, App. 11/10/94; Ord. 56-97, App. 3/6/97; Ord. 345-98, App. 11/19/98)

Disclosure Categories

See Section 58.600

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SEC. 58.150. DEPARTMENT OF BUILDING INSPECTION.

Designated Positions

Building Inspection Commission Member

Building Inspection Commission Secretary

Director of Building Inspection

Disclosure Categories

All 1

Deputy Director, Permit Services
Deputy Director, Inspection Services
Departmental Personnel Officer
Manager of Administration
Manager of Central Permit Bureau
Building Code Analyst
Senior Civil Engineer
Building Plans Engineer
Mechanical Engineer
Assistant Mechanical Engineer
Structural Engineer
Civil Engineer
Associate Civil Engineer
Assistant Civil Engineer
Chief Building Inspector
Senior Building Inspector
Building Inspector
Chief Electrical Inspector
Senior Electrical Inspector
Electrical Inspector
Chief Plumbing Inspector
Plumbing Inspector
Chief Housing Inspector
Senior Housing Inspector
Housing Inspector
Management Assistant (Permit Expediter)
Board of Examiners Member
Senior Plumbing Inspector
Chief Clerk
Permit Clerk II
Access Appeals Commission Member
Seismic Investigation and Hazard Survey
Advisory Committee Member
Unreinforced Masonry Buildings Appeals Board Member
One-Stop Permit Manager
One-Stop Permit Coordinator
One-Stop Permit Clerk
Manager of Customer Services
(Added by Ord. 56-97, App. 3/6/97; amended by Ord. 345-98, App. 11/19/98)

SEC. 58.155. CITY ADMINISTRATOR. (a) **Disclosure Category 2.** Persons in this category shall disclose all investments and business positions in business entities and income from any source which provides, or contracts with the City and County of San Francisco and its City Administrator to provide, services, supplies, materials, machinery or equipment to the City Administrator.

(b) **Disclosure Category 3.** Persons in this category shall disclose all investments and business positions in business entities, interests in real property, and income

from any source that is subject to the regulatory, permit or licensing authority of the City Administrator.

Designated Positions	Disclosure Categories
City Administrator	1
Executive Assistant to the City Administrator	1
Deputy Fiscal Officer	1
Chief of Systems	1
Risk Manager	1
Assistant to City Administrator VI	1
Project Manager	2
Assistant to City Administrator VIII	3
Director Convention Facilities	3
Assistant to City Administrator V	3
Recycling Coordinator	3
Hotel Tax Administrator	3
(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 190-90, App. 5/24/90; Ord. 311-92, App. 10/9/92; Ord. 56-97, App. 3/6/97)	

SEC. 58.165. CITY ATTORNEY. (a) **Disclosure Category 2.** Persons in this category shall disclose all interests in real property, and all income from and investments in business entities which hold interests in real property in the jurisdiction, and all business positions held in such business entities.

(b) **Disclosure Category 3.** Persons in this category shall disclose all sources of income, all investments, and all business positions in any business entity which does business in this jurisdiction.

(c) **Disclosure Category 4.** Persons in this category shall disclose all income from, and investments in, business entities which provide services, supplies, materials, machinery or equipment of the type used by the Office of the City Attorney, and all business positions held in such entities.

Designated Positions	Disclosure Categories
City Attorney	See Section 58.600
Chief Assistant City Attorney	1
Chief Deputy City Attorney	1
Special Assistant, Board of Supervisors	1
Special Assistant for Government Litigation	1
Chief, Litigation Division	3
Chief, Civil Litigation	3
Chief, Complex Litigation	3
Chief, Special Litigation	1
Lead Attorney, Government Law Division	1
Attorneys, Ethics	1
Attorneys, Telecommunications	3
Attorneys, Finance, Transactions and Special Projects	1
Lead Attorney, Airport	1
Lead Attorney, Code Enforcement	2
Lead Attorney, Construction	1

Attorneys, Contracts	1
Attorneys, Environment	2
Lead Attorneys, Health and Human Services	3
Lead Attorney, Labor Relations	1
Attorneys, Land Use	2
Attorneys, Taxation	1
Attorneys, Port	1
Lead Attorney, Public Utilities	1
Lead Attorney, Public Transportation	1
Attorneys, Retirement	1
Chief, Claims and Investigation Division	3
Chief, Administrative Services	4
Chief Financial Officer	4
(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 190-90, App. 5/24/90; Ord. 311-92, App. 10/9/92; Ord. 380-94, App. 11/10/94; Ord. 56-97, App. 3/6/97; Ord. 224-97, App. 6/6/97; Ord. 345-98, App. 11/19/98)	

SEC. 58.168. CIVIL GRAND JURY. Disclosure Category 2. Persons in this category shall disclose all investments and business positions in business entities, and income from any sources which have done business within the City and County in the previous two years and income from all individuals who are employees of the City and County and all interests in real property.

Designated Positions	Disclosure Categories
Member, Civil Grand Jury	2
(Added by Ord. 190-90, App. 5/24/90)	

SEC. 58.170. CIVIL SERVICE COMMISSION. Disclosure Category 2. Persons in this category shall disclose all investments and business positions in business entities and income from any source which provides, or contracts with the City and County of San Francisco and its Civil Service Commission to provide, services, supplies, materials, machinery or equipment to the Civil Service Commission.

Designated Positions	Disclosure Categories
Civil Service Commissioner	2
Executive Officer	2
(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 380-94, App. 11/01/94)	

SEC. 58.175. COMMISSION ON THE STATUS OF WOMEN.

Designated Positions	Disclosure Categories
Commission Member	All 1
Executive Director	
(Added by Ord. 190-90, App. 5/24/90)	

SEC. 58.177. COMMUNITY COLLEGE DISTRICT. Disclosure Category

2. Persons in this category shall disclose all interests in real property, investments in any business entity and income from any source which leases, rents or operates from property of the San Francisco Community College District or provides or contracts with the San Francisco Community College District to provide services (including construction, repair and maintenance), equipment, materials, supplies, vehicles, or other items of use to the San Francisco Community College District, or which may foreseeably do so in the future, or which has done so within two years prior to any time period covered by a statement of economic interest, and his or her status as a director, officer, partner, trustee, employee or holder of any management position in any such business entity.

Designated Positions**Disclosure Categories**

Members of the Governing Board	1
Chancellor Superintendent	1
Vice Chancellor, Administration	1
Vice Chancellor, Instruction	2
Vice Chancellor, Student Services	2
Vice Chancellor, Planning, Research & Institutional Development	2
Director, Budget	1
Director, Administrative Services	1
Dean, Contract Education	2
Dean, Vocational Education	2
Dean, International Education/Community Services	2
Chief Operating Officer	2
Provost	2

(Added by Ord. 190-90, App. 5/24/90; amended by Ord. 311-92, App. 10/9/92; Ord. 380-94, App. 11/10/94)

SEC. 58.180. CONTROLLER.**Designated Positions****Disclosure Categories**

Controller	All 1
Chief Assistant Controller	
Director, Accounting Operations and Systems Division	
Personnel Officer	
Director, Payroll and Personnel Systems Division	
Director, Internal Audits Division	
Director, Budget, Analysis & Reports Division	

(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 26-90, App. 1/24/90; Ord. 311-92, App. 10/9/92; Ord. 380-94, App. 11/10/94; Ord. 56-97, App. 3/6/97; Ord. 345-98, App. 11/19/98)

SEC. 58.185. DISTRICT ATTORNEY. Disclosure Category 2.

Persons in this category shall disclose all income from and investments in businesses that provide services or that manufacture or sell supplies of the type used by the Office of the District Attorney.

Designated Positions

District Attorney	
Chief Assistant District Attorney (Chief Attorney II)	
Assistant Chief Attorney II	
Assistant Chief Attorney I	
Administrative Assistant	
Consumer Fraud Attorneys and Investigators	
Special Prosecution Attorneys and Investigators	
Chief Investigator	
Director, Family Support Bureau	
Head of Felony Intake/Rebooking Section	
Coordinator of Victim Services	
Witness Services Specialist	
(Added by Ord. 3-90, App. 1/5/90)	

Disclosure Categories

See Section 58.600

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2
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2

SEC. 58.190. ECONOMIC OPPORTUNITY COUNCIL. Disclosure Category 2. Persons in this category shall disclose all investments and business positions in business entities and income from any source which provides, or contracts with the City and County of San Francisco and its Economic Opportunity Council to provide, services, supplies, materials, machinery or equipment to the Economic Opportunity Council.

Designated Positions

Executive Director
Chief Fiscal Officer
Purchasing Component Head

Disclosure Categories

1
1
2

(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 311-92, App. 10/9/92)

SEC. 58.195. DEPARTMENT OF TELECOMMUNICATIONS AND INFORMATION SERVICES. Disclosure Category 2. Persons in this category shall disclose all investments and business positions in business entities and income from any source which provides, or contracts with the City and County of San Francisco and its Department of Telecommunications and Information Services to provide, services, supplies, materials, machinery or equipment to the Department of Telecommunications and Information Services.

Designated Positions

Director
Deputy Director of Policy & Compliance
Deputy Director of Administration
Deputy Director for Enterprise Computing
Deputy Director for Network Engineering
Deputy Director for Network Facilities
Deputy Director for Applications Development
Director of C.O.I.T.
Business Manager

Disclosure Categories

1
2
2
2
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2
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2

(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 311-92, App. 10/9/92; Ord. 56-97, App. 3/6/97; Ord. 345-98, App. 11/19/98)

SEC. 58.198. DEPARTMENT OF ELECTIONS. Disclosure Category 2.

Persons in this category shall disclose all interests in real property, and all investments and business positions in business entities and income from any source which manufactures or sells supplies, materials, machinery or equipment of the type used by the Department of Elections.

Designated Positions	Disclosure Categories
Director of Elections	1
All Division Managers, Department of Elections	2
Computer Services Manager	2
Administrative Analyst	2
(Added by Ord. 56-97, App. 3/6/97)	

SEC. 58.200. EMERGENCY SERVICES.

Designated Positions	Disclosure Categories
Director of Emergency Services	1
(Added by Ord. 3-90, App. 1/1/90)	

SEC. 58.201. ENVIRONMENT COMMISSION.

Designated Positions	Disclosure Categories
Commission Member	1
(Added by Ord. 56-97, App. 3/6/97)	

SEC. 58.202. ETHICS COMMISSION.

Designated Positions	Disclosure Categories
Commission Member	All 1
Executive Director	
Chief Investigator/Deputy Executive Director	
Investigator/Auditor	
Whistleblower/Educator	
Campaign Finance Officer	1
Campaign Finance Auditor	1
Consultant	
(Added by Ord. 380-94, App. 11/10/94; amended by Ord. 56-97, App. 3/6/97; Ord. 345-98, App. 11/19/98)	

SEC. 58.205. BOARD OF EXAMINERS, PLUMBING AND ELECTRICAL.

Designated Positions	Disclosure Categories
Members, Board of Examiners	1
(Added by Ord. 3-90, App. 1/5/90)	

SEC. 58.207. FILM AND VIDEO ARTS COMMISSION. Disclosure Category 2. Persons in this category shall disclose all investments and business positions in, and income from, any film company that does business in the City and

County within two years of the period covered by any statement of economic interest, or may foreseeably do business in the City and County. The term “film company” shall have the meaning ascribed to it by Section 57.1 of the Administrative Code of the City and County of San Francisco.

Designated Positions	Disclosure Categories
Commissioner	2
Executive Director	1
Administrative Assistant	1
(Added by Ord. 296-91, App. 7/29/91; amended by Ord. 311-92, App. 10/9/92; Ord. 345-98, App. 11/19/98)	

SEC. 58.210. FINE ARTS MUSEUMS. Disclosure Category 2. Persons in this disclosure category shall disclose all investments and business positions in any business entity, and income from any source, involved in the buying or selling of works of art and which does business with The Fine Arts Museums of San Francisco, or has done business with the Museums within the two years prior to the date any disclosure statement must be filed, or which may foreseeably do business with the Museums in the future.

Disclosure Category 3. Persons in this disclosure category shall disclose all investments and business positions in any business entity, and income from any source, engaged in the construction trade and which does business with The Fine Arts Museums of San Francisco, or has done business with the Museums within the two years prior to the date any disclosure statement must be filed, or which may foreseeably do business with the Museums in the future.

Disclosure Category 4. Persons in this disclosure category shall disclose all investments and business positions in any business entity, and income from any source, involved in the sale and/or installation of signalling systems, including fire alarms, burglar alarms and similar systems, which does business with The Fine Arts Museums of San Francisco, or has done business with the Museums within the two years prior to the date any disclosure statement must be filed, or which may foreseeably do business with the Museums in the future.

Disclosure Category 5. Persons in this category shall disclose all investments and business positions in any business entity, and income from any source, which does business with The Fine Arts Museums of San Francisco, or has done business with the Museums within the two years prior to the date any disclosure statement must be filed, or which may foreseeably do business with the Museums in the future.

Disclosure Category 6. Persons in this disclosure category shall disclose all investments and business positions in any business entity, and income from any source, involved in the design and publication of printed material, or the reproduction of works of art, which does business with The Fine Arts Museums of San Francisco, or has done business with the Museums within the two years prior to the date any disclosure statement must be filed, or which may foreseeably do business with the Museums in the future.

Disclosure Category 7. Persons in this disclosure category shall disclose all investments and business positions in any business entity, and income from any source, involved in the manufacture, sale, lease, distribution or provision of computers and computer services, which does business with the Fine Arts Museums of San

Francisco, or has done business with the Museums within the two years prior to the date any disclosure statement must be filed, or which may foreseeably do business with the Museums in the future.

Disclosure Category 8. Persons in this disclosure category shall disclose all investments and business positions in any business entity, and income from any source, which manufactures or sells supplies, books, machinery or equipment, or which provides services, of the type used by the department for which the designated employee is manager or director.

Designated Positions	Disclosure Categories
Trustee	2, 3, 4
Director	5
Associate Director/Chief Curator	5
Director of Exhibitions and Technical Production	3, 5
Director of Advertising and Promotion	8
Director of Membership and Annual Fund	5
Deputy Director for Administration and Finance	5
Deputy Director for Development	5
Curator-In-Charge, American Art	2, 6
Curator-In-Charge, Textiles	2, 6
Curator-In-Charge, Africa, Oceania and the Americas	2, 6
Curator-In-Charge, Achenbach Foundation for Graphic Arts	2, 6
Head Conservator, Paintings Conservation	2
Head Conservator, Paper Conservation Lab	2
Head Conservator, Textiles Conservation	2
Head Conservator, Objects Conservation	2
Director of Registration	7
Buildings & Grounds Maintenance Superintendent	3, 4, 8
Controller	5
Director of Education	6
Director of Exhibition Planning	5
Librarian	6
Director of Publications and Graphic Design	6
Visitor and Visitor Services Manager	8
Chairman of Conservation Labs/Head of Paper Conservation Lab/Director of Collection Imaging	2, 7
General Manager of Museum Stores	8
Director of Media Relations	8
de Young Project Manager	3, 4, 5, 7, 8

(Added by Ord. 190-90, App. 5/24/90; amended by Ord. 311-92, App. 10/9/92; Ord. 380-94, App. 11/10/94; Ord. 56-97, App. 3/6/97; Ord. 345-98, App. 11/19/98)

SEC. 58.215. FIRE DEPARTMENT. Disclosure Category 2. Persons in this disclosure category shall disclose all interests in real property, and all investments in, income from, and any business position in any business entity which manufactures or sells supplies, materials, machinery or equipment of the type purchased by the San

Francisco Fire Department, or which provides services of the type used by the Department.

Disclosure Category 3. Persons in this disclosure category shall disclose all investments and business positions in business entities, and income from any source, which manufactures or sells supplies, materials, machinery or equipment of the type purchased by the San Francisco Fire Department, or which provides services of the type used by the Department.

Disclosure Category 4. Persons in this disclosure category shall disclose all investments and business positions in business entities, and income from any source, which provides personnel training services of the type used by the Department.

Designated Positions	Disclosure Categories
Commissioners	1
Chief of Department	1
Deputy Chief of Department	1
Assistant Deputy Chief II	2
Captain, Bureau of Equipment	3
Assistant Chief, Airport	1
Fire Marshal	1
Assistant Chief	3
Operations/Training Supervisor, Airport	3
Fire Prevention - all ranks	
Employees with inspection responsibilities	1
Utility Plumber Supervisor I	2
Utility Plumber Supervisor II	2
H-53 EMS Chief	2
H-43 EMS Section Chiefs	2

(Added by Ord. 190-90, App. 5/24/90; amended by Ord. 345-98, App. 11/19/98)

SEC. 58.218. HEALTH AUTHORITY. Disclosure Category 2. Persons in this category shall disclose all investments in and business positions with business entities, including nonprofit entities, which may receive funds from the Health Authority, or contract with the Health Authority, or provide services of the type utilized by the Health Authority, including but not limited to health care providers and community-based health and social service organizations. Persons in this category shall also disclose all income from persons and entities that may receive funds from the Health Authority, or contract with the Health Authority, or provide services of the type utilized by the Health Authority, including but not limited to health care providers and community-based health and social service organizations.

Designated Positions	Disclosure Categories
Members of the Governing Board	2
Chief Executive Officer	2
Director of Business Development	2
Consultants*	2

* With respect to consultants, the CEO of the Health Authority may determine in writing that a particular consultant is hired to perform a range of duties that are

limited in scope and thus the consultant is not required to comply with the disclosure requirements. Such a determination shall include a description of the consultant's duties and, based on those duties, a statement of the applicable disclosure requirements. The CEO shall forward a copy of this determination to the Ethics Commission. The determination is a public record and shall be retained for public inspection. (Added by Ord. 245-97, App. 6/13/97)

SEC. 58.220. HOUSING AUTHORITY. Disclosure Category 2. Persons in this disclosure category shall disclose all investments in, income from, and any business position in any business entity which leases, rents or operates from property of the San Francisco Housing Authority, or which provides or contracts with the Housing Authority to provide, services, supplies, materials, machinery or equipment to the Authority, or which has done so within the two years prior to the filing of any disclosure statement, or which may foreseeably do so in the future.

Disclosure Category 3. Persons in this disclosure category shall disclose all income from any person who applies for housing with the San Francisco Housing Authority, or who has submitted such an application within the two years prior to the filing of any disclosure statement.

Disclosure Category 4. Persons in this disclosure category shall disclose all interests in real property in the City and County of San Francisco, and investments and business positions in business entities and income from any source which owns, leases, rents or manages any real property in the City and County of San Francisco.

Designated Positions	Disclosure Categories
Commissioners	1
Executive Director	1
Deputy Executive Director	1
Executive Assistant to the Executive Director	1
Inspector General	1
General Counsel	1
Director of Internal Audit	1
Director of Finance	2
Accounting Manager	2
Materials Manager	2
Material Control Officer	2
Procurement Officer	2
Buyer	2
Budget Supervisor	2
Senior Project Manager	2
Project Manager	2
Hope VI/New Construction Manager	2
Modernization Manager	2
Construction Inspector	2
Engineering Associate	2
Senior Industrial Hygienist	2
Architectural Associate I	2
Architectural Associate II	2
Public Information Officer	2

Director of Human Resources	2
Recruitment/Labor Relations Manager	2
Safety Specialist	2
Affirmative Action Officer	2
Administrator of Modernization & Rehabilitation	1
Administrator of Business Administration & Support	1
Administrator of Housing Development	1
Customer Service Administrator	1
Administrator of Leased Housing	1
Administrator of Social Services	1
Assistant General Counsel	2
Senior Attorney	2
Certified Paralegal	2
Risk Management Officer	2
Administrative Officer	2
Accounting Supervisor	2
Director of Management Information Systems	2
Director of Contracting	2
Labor & Employee Relations Specialist	2
Director of Diversity & Training	2
Director of Administrative Services	2
Public Safety Specialist	2
District Customer Service Director	2
Director of Central Services	2
Administrative Director	2
Planning and Program Development Manager	2
General Manager, Family Sweep	2
General Manager, Senior Sweep	2
Deputy Administrator of Social Services	2
Chief of Economic & Employment Development	2
Grants Manager	2
Associate Grants Manager	2
Director of OCRI	2
Director of Safety	2
Director of Senior Social Services	2
Financial Advisor	2
Employment & Relocation Services Manager	2
(Added by Ord. 190-90, App. 5/24/90; amended by Ord. 311-92, App. 10/9/92; Ord. 56-97, App. 3/6/97; Ord. 345-98, App. 11/19/98)	

SEC. 58.225. HAZARDOUS MATERIALS ADVISORY COMMITTEE.
Disclosure Category 2. Persons in this category shall disclose all interests in real property which has an existing, proposed or abandoned storage facility of hazardous materials, as defined by Sections 1110 et seq. of the San Francisco Health Code, and all business positions in business entities which are subject to the regulatory, permit or licensing provisions of the Hazardous Materials Permit and Disclosure Ordinance. An official occupies a "business position" if he or she is a director, officer, partner, trustee, employee or holds any position of management.

Designated Positions

Member

(Added by Ord. 3-90, App. 1/5/90)

Disclosure Categories

2

SEC. 58.235. HUMAN RESOURCES DEPARTMENT. Disclosure Category

2. Persons in this category shall disclose all investments and business positions in business entities and income from any source which provides, or contracts with the City and County of San Francisco and its Human Resources Department to provide, services, supplies, materials, machinery or equipment to the Human Resources Department.

Designated Positions

Human Resources Director

Executive Director, Health Services System

Members, Health Service Board

Employee Relations Director

Division Manager, Personnel

Assistant Division Manager, Personnel

Affirmative Action Coordinator

Director of Training

(Added by Ord. 380-94, App. 11/10/94; amended by Ord. 345-98, App. 11/19/98)

Disclosure Categories

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SEC. 58.240. HUMAN RIGHTS COMMISSION. Disclosure Category 2.

Persons in this position shall disclose all investments and business positions in business entities, interests in real property, and sources of income subject to the regulatory, permit or licensing authority of the Human Rights Commission.

Designated Positions

Members, Human Rights Commission

Executive Director

Contract Compliance Officer II

Contract Compliance Officer I

(Added by Ord. 3-90, App. 1/5/90; amended Ord. 345-98, App. 11/19/98)

Disclosure Categories

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2

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SEC. 58.245. JOINT POWERS FINANCING AUTHORITY. Disclosure

Category 2. Persons in this category shall disclose all income from, investments in, and their status as a director, officer, partner, trustee, employee or holder of a management position in any business entity engaged in investment banking.

Designated Positions

Member, Authority Board

(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 56-97, App. 3/6/97)

Disclosure Categories

2

SEC. 58.250. JUVENILE PROBATION COMMISSION. Disclosure Category

2. Persons in this disclosure category shall disclose all interests in real property, investments and business positions in any business entity, and income from any source, that provides or contracts to provide to the Juvenile Probation Department, any equipment, supplies, machinery, materials or services, or has done so within two

years prior to the filing of any statement of economic interest, or may foreseeably do so in the future.

Designated Positions	Disclosure Categories
Commissioner	2
Chief Probation Officer	1
(Added by Ord. 190-90, App. 5/24/90)	

SEC. 58.252. LANDMARKS PRESERVATION ADVISORY BOARD.

Designated Positions	Disclosure Categories
Board Member	1
(Added by Ord. 190-90, App. 5/24/90)	

SEC. 58.255. LAW LIBRARY. Disclosure Category 2. Persons in this category shall disclose all sources of income from any business that sells or provides supplies, materials, books, machinery or services or equipment of the type utilized by the San Francisco Law Library in an aggregate of \$5,000 per annum or more.

Designated Positions	Disclosure Categories
Law Librarian — Secretary	All 2
Chief Assistant Law Librarian	
Members of the Board of Trustees	
(Added by Ord. 3-90, App. 1/5/90; amended Ord. 345-98, App. 11/19/98)	

SEC. 58.260. MAYOR'S OFFICE.

Designated Positions	Disclosure Categories
Mayor	See Section 58.600
Administrative Secretary to the Mayor	1
Mayor's Program Manager	1
Special Assistant for Program Development	1
Coordinator for Citizen Involvement	1
Intergovernmental Affairs Coordinator	1
Deputy Director, Mayor's Criminal Justice Council	1
Port Director/Treasure Island	1
Director, Mayor's Office of Business & Economic Development/Chief Economic Advisor	1
Special Assistant II	1
Special Assistant III	1
Special Assistant IV	1
Special Assistant V	1
Special Assistant VI	1
Special Assistant VII	1
Special Assistant VIII	1
Special Assistant IX	1
Special Assistant X	1
Special Assistant XI	1

Special Assistant XII	1
Special Assistant XIII	1
Special Assistant XIV	1
Special Assistant XV	1
Special Assistant XVI	1
(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 380-94, App. 11/10/94; Ord. 345-98, App. 11/19/98)	

SEC. 58.265. MEDICAL EXAMINER. (a) **Disclosure Category 2.** Persons in this category shall disclose all investments and business positions in business entities and income from any source which provides, or contracts with the City and County of San Francisco and its Medical Examiner to provide, services, supplies, materials, machinery or equipment to the Medical Examiner.

(b) **Disclosure Category 3.** Persons in this category shall disclose all investments and business positions in business entities, interests in real property, and sources of income subject to the regulatory, permit or licensing authority of the Medical Examiner.

Designated Positions	Disclosure Categories
Chief Medical Examiner	1
Medical Examiner's Administrator	2, 3
(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 345-98, App. 11/19/98)	

SEC. 58.267. OFFICE OF CITIZEN COMPLAINTS.

Designated Positions	Disclosure Categories
Director	1
(Added by Ord. 190-90, App. 5/24/90)	

SEC. 58.270. PARKING AUTHORITY.

Designated Positions	Disclosure Categories
Members of the Parking Authority	All 1
Director	
Deputy Director	
(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 345-98, App. 11/19/98)	

SEC. 58.272. DEPARTMENT OF PARKING AND TRAFFIC.

Designated Positions	Disclosure Categories
Commissioners	All 1
Executive Director	
Deputy Director, Finance and Administration	
Deputy Director, Traffic	
Deputy Director, Enforcement	
Deputy Director, Parking Services	
(Added by Ord. 190-90, App. 5/24/90; amended by Ord. 380-94, App. 11/10/94; Ord. 345-98, App. 11/19/98)	

SEC. 58.275. BOARD OF APPEALS.**Designated Positions**

Board Member

Executive Secretary

(Added by Ord. 26-90, App. 1/24/90; amended by Ord. 190-90, App. 5/24/90; Ord. 56-97, App. 3/6/97)

Disclosure Categories

All 1

SEC. 58.280. PLANNING DEPARTMENT. (a) Disclosure Category 2.

Persons in this category shall disclose all interests in real property, and all income from, and investments and business positions in any business entity that is principally involved in real estate development, architecture, design, engineering, real estate brokerage, real estate finance or appraisal, or historic preservation.

(b) **Disclosure Category 3.** Persons in this category shall disclose all investments and business positions in business entities and income from any source which provides, or contracts with the City and County of San Francisco and the Department of City Planning to provide, services, supplies, materials, machinery or equipment to the Department of City Planning.

Designated Positions

Planning Commissioners

Director of Planning

Special Assistant XVI

Assistant Director — Implementation

Planner V — General

Planner V — Zoning

Environmental Review Officer

Administrative Secretary, City Planning Commission

Planner IV — General

Planner IV — Zoning

Planner IV — Environmental Review

Planner IV — Urban Systems Analyst

Planner III — Urban Design

Planner III — Transportation

Planner III — General

Planner III — Zoning

Planner III — Environmental Review

Planner II

Planner I

Transit Planner IV

Transit Planner III

Transit Planner II

Architectural Assistant II

Architectural Assistant I

Consultants*

Disclosure Categories

See Sec. 58.600

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* With respect to consultants, the Director of Planning may determine in writing that a particular consultant is hired to perform a range of duties that are limited in scope and thus is not required to comply with the disclosure requirements described in this category. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Director of Planning shall forward a copy of this determination to the Board of Supervisors. Nothing herein excuses any such consultant from any other provision of this Conflict of Interest Code. (Added by Ord. 3-90, App. 1/5/90; amended by Ord. 190-90, App. 5/24/90; Ord. 311-92, App. 10/9/92; Ord. 380-94, App. 11/10/94; Ord. 56-97, App. 3/6/97; Ord. 345-98, App. 11/19/98)

SEC. 58.285. POLICE DEPARTMENT. (a) **Disclosure Category 2.** Persons in this category shall disclose all investments and business positions in business entities and income from any source which provides, or contracts with the City and County of San Francisco and its Police Department to provide, services, supplies, materials, machinery or equipment to the Police Department.

(b) **Disclosure Category 3.** Persons in this category shall disclose all investments and business positions in business entities, interests in real property, and income from any source subject to the regulatory, permit or licensing authority of the Police Department.

Designated Positions	Disclosure Categories
Police Commissioners	1
Chief of Police	1
Deputy Chief of Police	1
Assistant Chief of Police	1
All Captains of Police	1
Commanders of Police	1
Commanding Officers, District Stations	1
Commanding Officer, Planning Division	2
Commanding Officer, Vice Crimes	1
Commanding Officer, Property Control Division	1
Commanding Officer, Fiscal Division	1
Commanding Officer, Legal Division	1
Legal Officers	1
Commanding Officer, Permits Section	3
Officer in Charge, Permit Section	3
Chief's Permit Hearing Officer	3
Officer in Charge of the Police Law Enforcement Services Unit	1
Officer in Charge of Management Control Division	1
Officer in Charge of Management Information Systems	1
Chief Accounting Officer	2
Commanding Officer — Special Investigations	1
Commanding Officer — Narcotics Division	1
Lieutenant — Vice Crimes	1
Lieutenant — Narcotics	1

(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 311-92, App. 10/9/92; Ord. 56-97, App. 3/6/97; Ord. 345-98, App. 11/19/98)

SEC. 58.290. PORT COMMISSION. Disclosure Category 2. Persons in this category shall disclose all investments in any business entity and income from any source which leases, rents or operates from property under the jurisdiction of the Port Commission, or which provides, or contracts with the City and County of San Francisco or the Port Commission to provide, services (including construction, repair and maintenance), equipment, materials, supplies, vehicles, or other items of use to the Port Commission, or which may foreseeably do so in the future, or which has done so within two years prior to any time period covered by a statement of economic interest, and his or her status as a director, officer, partner, trustee, employee, or holder of any management position in any such business entity.

Designated Positions	Disclosure Categories
Port Commissioners	1
Port Director	1
Commercial Property Manager	2
Assistant Rental Manager	2
Cargo Operations Manager	2
Wharfinger II	2
Chief Harbor Engineer	1
Chief Building Inspector	2
Building Inspector	2
Construction Inspector	2
Supervising Fiscal Officer	1
Superintendent, Harbor Maintenance	1
Deputy Directors, Port	1
Government and Public Affairs Manager, Port	1
Cargo Sales and Marketing Representative	2
Senior Property Manager	2
Manager, Port Planning and Development	2
Manager, Regulatory and Environmental Affairs	2
Marketing Manager	1
Financial Manager	1
Assistant Superintendent Harbor Maintenance	2
Manager, Leasing and Tenant Services	1
Administrative Services Officer	2

(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 311-92, App. 10/9/92; Ord. 380-94, App. 11/10/94; Ord. 56-97, App. 3/6/97; Ord. 156-98, App. 5/8/98; Ord. 345-98, App. 11/19/98)

SEC. 58.300. PUBLIC ADMINISTRATOR/PUBLIC GUARDIAN.

Designated Positions	Disclosure Categories
Public Administrator & Public Guardian	All 1
Assistant Public Administrator/Public Administrator	
Attorney for Public Administrator	

Senior Attorney, Civil & Criminal

Senior Admin. Analyst (Deputy for Finance and Administration)

(Added by Ord. 3-90, App. 1/5/90; Ord. 345-98, App. 11/19/98)

SEC. 58.305. PUBLIC DEFENDER.

Designated Positions

Public Defender

(Added by Ord. 3-90, App. 1/5/90)

Disclosure Categories

1

SEC. 58.310. PUBLIC HEALTH DEPARTMENT. (a) Disclosure Category

2. Persons in this category shall disclose all investments and business positions in business entities and income from all laboratories, clinics, hospitals, rest homes, nursing homes, and outpatient care facilities, all medical, surgical, psychiatric, psychological, and related practices, all medical supply firms, drug companies, and insurance companies; all child or adult care facilities; all medical or social service consulting firms; and any source which provides, or contracts with the City and County of San Francisco and its Public Health Department to provide, services, supplies, materials, machinery or equipment to the Public Health Department.

(b) **Disclosure Category 3.** Persons in this category shall disclose all investments and business positions in business entities, interests in real property, and income from any source subject to the regulatory, permit or licensing authority of the Department of Public Health.

Designated Positions

Health Commissioner

Executive Assistant to the Director of Health

Administrator, SFGH Medical Center

Director of Health

Departmental Personnel Officer

Senior Personnel Officer

Personnel Director

Finance Director, DPH

Supervising Fiscal Officer

MIS Manager

Senior Administrative Analyst (Contracts Office Only)

Principal Administrative Analyst (Contracts Office Only)

Materials and Supplies Supervisor

Materials Coordinator

Chief Medical Records Administrator

Director of Patient Financial Services and Admissions

Hospital Assistant Administrator

Hospital Associate Administrator

Associate Administrator, Medical Services, LHH

Administrator, LHH

Director, Dental Division

Senior Physician Specialist (Leadership Positions Only)

Supervising Physician Specialist

Disclosure Categories

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Radiologist/Chief of Medical Staff	1
Head Nurse	2
Assistant Director of Nursing	1
Director of Nurses, LHH	1
Senior Pharmacist	2
Director of Pharmaceutical Services	2
Pharmacy Director, LHH	2
Director, Public Health Laboratories	2
Administrative Chef	2
Director of Food Services	2
Assistant General Services Manager	2
General Services Manager	2
Associate Director, AIDS	1
Deputy Director for Business and Operations	1
Deputy Director for Mental Health Programs	1
Deputy Director, Public Health Programs	1
Medical Social Worker Supervisor	2
Chief, Medical Social Services	2
Conservatorship/Case Management Supervisor	2
Environmental Health Inspector	3
Senior Environmental Health Inspector	3
Principal Environmental Health Inspector	3
Director, Bureau of Environmental Health Services	1
Assistant Director, Bureau of Environmental Health Services	1
Industrial Hygienist	2
Building and Grounds Maintenance Superintendent	2
Chief Stationary Engineer	2
Institutional Police Lieutenant	2
MIS Director	1
Administrator, Health Information Services	2
Associate Affirmative Action Coordinator	2
Secretary, Health Commission	1
Director of Patient Accounts	2
Senior Storekeeper	2
Assistant Materials Coordinator	2
Director of Medical Records	2
Senior Associate Administrator	1
Medical Director, DPH	1
Nursing Supervisor	2
Assistant Director of Nursing, Staff Development and Research	1
Assistant Director of Nursing, LHH	2
Rad. Tech. Supervisor	2
Director, Radiology	1
Emergency Medical Services Agency Specialist	2
Rehabilitation Coordination	2

Employee Referral Program Director (EAP)	2
Food Service Manager	2
Principal Disease Control Investigator	2
Chief, Bureau of Records and Statistics	2
Director of Health Program Planning	1
Chief, Bureau of Health Education	2
Director, WIC Program, DPH	1
Director, Business and Operations Support, MHP	1
Deputy Director of Adult Services, CMHS	1
Deputy Director of Institutions, DPH	1
Program Chief, CPHS	1
Hospital Eligibility Manager	2
DPH Contract Compliance Officer II	2
Contract Compliance Officer I	2
Assistant Industrial Hygienist	2
Senior Industrial Hygienist	2
Hazardous Materials Permit Program Manager	2
Manager, Office of Health and Safety	2
Director of Toxics and Safety Services	1
Institutional Police Sergeant	2
Institutional Police Captain	2
Director of Homeless Programs	2
Director of Public Information	2
Telecommunications Systems Director	2
Assistant Director, MIS	2
Health Center Manager	2
Elig. Section Manager	2
Special Assistant (VII-XVII)	2
Director of Activities, Therapy and Volunteer Services	2
Nursing Supervisor, Psychiatry	2
(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 311-92, App. 10/9/92; Ord. 380-94, App. 11/10/94; Ord. 56-97, App. 3/6/97; Ord. 202-98, App. 6/19/98; Ord. 345-98, App. 11/19/98)	

SEC. 58.315. PUBLIC LIBRARY. Disclosure Category 2. Persons in this category shall disclose all investments and business positions in business entities and income from any source which provides, or contracts with the City and County of San Francisco and its Public Library Department to provide, services, supplies, materials, machinery or equipment to the Public Library Department.

Designated Positions	Disclosure Categories
Commissioners	1
City Librarian	1
Deputy City Librarian	2
Librarian IV	2
Secretary to the Library Commission	2
Librarians, Order Department	2
Librarian, S.F. History Room	2

Librarian, Special Collections	2
Librarian, Periodical Processing	2
(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 345-98, App. 11/19/98)	

SEC. 58.320. PUBLIC UTILITIES COMMISSION. (a) **Disclosure Category 2.** Persons in this category shall disclose all investments in any business entity and any income from a source which, within the previous two years, did or in the future foreseeably might, lease, rent, or operate from the property of the Clean Water Enterprise or provide or contract with the Clean Water Enterprise to provide service (including construction, repair, and maintenance), equipment, materials, supplies, vehicles, or other items of use to the Clean Water Enterprise, and his or her business position in any such business entity.

(b) **Disclosure Category 3.** Persons in this category shall disclose all investments in any business entity and any income from a source which, within the previous two years, did or in the future foreseeably might, lease, rent, or operate from the property of the San Francisco Water Department or provide or contract with the San Francisco Water Department to provide service (including construction, repair, and maintenance), equipment, materials, supplies, vehicles, or other items of use to the San Francisco Water Department, and his or her business position in any such business entity.

(c) **Disclosure Category 4.** Persons in this category shall disclose all investments in any business entity and any income from a source which, within the previous two years, did or in the future foreseeably might, lease, rent, or operate from the property of Hetch Hetchy or provide or contract with Hetch Hetchy to provide service (including construction, repair, and maintenance), equipment, materials, supplies, vehicles, or other items of use to Hetch Hetchy, and his or her business position in any such business entity.

Designated Positions	Disclosure Categories
Public Utilities Commission & General Manager	All 1
Member, Public Utilities Commission	
General Manager of Public Utilities	
Special Assistant XV	
Administrative Secretary, Public Utilities Commission	
Assistant General Manager, Public Utilities Commission	
Contract Compliance Officer*	
Consultant**	
Hetch Hetchy Water & Power	
Manager, Bureau of Energy Conservation	1
Maintenance Engineering Manager	1
Superintendent of Operations	1
Administrative Engineer	4
General Manager, Hetch Hetchy	1
Water and Power Specialist	4
Water and Power Resources Manager	1
Maintenance and Repair Superintendent	4

Electrical Operation and Maintenance Superintendent	4
Power Generation Technician I	4
Power Generation Technician II	4
Senior Power Generation Technician	4
Power Generation Supervisor	4
Mechanical Shop and Equipment Superintendent	4
Manager, Regulatory and Environmental Affairs	4
Sanitary Engineering Technician	4
Senior Mechanical Engineer	4
Senior Electrical Engineer	4
Electrical Engineer	4
Senior Administrative Analyst	4

Water Supply and Treatment Division

Operations Manager	1
Urban Forester	3
Watershed Resources Manager	3
Water Supply and Treatment Manager	1
Water Construction and Maintenance Superintendent	3
Watershed Forester	3
Principal Civil Engineer	3

City Distribution Division

City Distribution Division Manager	1
Senior Civil Engineer	3
Superintendent, Buildings and Grounds	3
Water Construction and Maintenance Superintendent	3
Water Shops and Equipment Superintendent	3
Stores and Equipment Asst. Supervisor	3

Water Pollution Control Division

Administrative Services Manager	2
Supervisor of Lab, Water Quality Control	2
Public Buildings Maintenance and Repair Assistant Superintendent	2
Sewage Treatment Plant Superintendent	2
Manager, Bureau of Water Pollution Control	1
Deputy Manager, Bureau of Water Pollution Control	1
Chief Stationary Engineer	2
Stationary Engineer—Sewage Inventory Analysis	2
Senior Stationary Engineer	2

Water Quality Bureau

Special Assistant XV	3
Supervisor of Laboratories	3
Water Quality Division Manager	1
Senior Sanitary Engineer	3
Administrative Services Manager	3
Special Assistant XVI	3

Customer Service Bureau

Manager, Customer Service Bureau	1
Water Conservation Administrator	3

Bureau of Engineering

	All 1
Special Assistant XVII	
Special Assistant XVIII	
Manager, Utilities Engineering Bureau	
Principal Civil Engineer	

Bureau of Commercial Land Management

	All 1
Director, Bureau of Commercial Land Management	
Land Use Aide	
Senior Real Property Officer	
Real Property Officer	
Assistant Civil Engineer	
Engineering Associate II	

Bureau of Finance

	All 1
Head Accountant	
Supervising Fiscal Officer	
Assistant General Manager, Finance	
Senior Administrative Analyst	
Principal Administrative Analyst	
Rate Administrator	
Financial Manager	
Special Assistant XV	

Bureau of Management Information Systems

Manager, Bureau of Management Information Systems	1
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Bureau of System Planning and Regulatory Compliance

	All 1
Manager, Bureau of System Planning and Regulatory Compliance	
Water Resource and Planning Manager	
Project Manager IV	
Special Assistant XV	

Bureau of Environmental Regulation and Management

Senior Water Services Clerk	2
Senior Administrative Analyst	2
Bureau Chief	1
Administrative Engineer	2
Junior Civil Engineer	2
Assistant Civil Engineer	2
Associate Civil Engineer	2
Senior Civil Engineer	2
Principal Engineer	2

Sanitary Engineering Technician	2
Wastewater Control Inspector	2
Supv. Wastewater Control Inspector	2
Manager, Regulatory and Environmental Affairs	1
Senior Industrial Hygienist	1

* All personnel, except clerical, assigned by the Human Rights Commission to the Public Utilities Commission to serve as Contract Compliance Officers shall comply with the filing requirements for Contract Compliance Officers under this Section (Sec. 58.320).

** With respect to consultants, the General Manager of Public Utilities may determine that a particular consultant is hired to perform a range of duties that fall within those required to comply with the disclosure requirements of this Conflict of Interest Code. (Added by Ord. 3-90, App. 1/5/90; amended by Ord. 380-94, App. 11/10/94; Ord. 56-97, App. 3/6/97; Ord. 345-98, App. 11/19/98)

SEC. 58.323. PUBLIC TRANSPORTATION COMMISSION. Disclosure Category 2. Persons in this category shall disclose all sources of income, investments and his or her status as a director, officer, partner, trustee, employee, or holder of a management position in any business entity.

Designated Positions	Disclosure Categories
Member, Public Transportation Commission	1
Director of Public Transportation	1
Deputy Director of Capital Projects	1
Deputy Director of Finance, Administration and Personnel	1
Deputy Director of Maintenance	1
Deputy Director of Operations	1
Administrative Secretary, Public Transportation Commission	1
Senior Industrial Hygienist	1
Deputy General Manager, Engineering and Administration	1
Senior Administrative Analyst	1
Transit Manager II	1
Transit Manager III	1
System Safety Inspector	1
Director of Service Planning	1
Automotive Maintenance Manager	1
Administrative Service Manager	1
Material Coordinator	1
Assistant Material Coordinator	1
Electrical Transit Equipment Supervisor	1
Automotive Transit Shop Supervisor I	2
Electrical Transit Shop Supervisor I	2
Transit Equipment Engineer	2
LRV Equipment Engineer	2

Senior Management Assistant	1
Janitorial Service Supervisor	2
Senior Civil Engineer	1
Senior Electrical Engineer	1
Senior Mechanical Engineer	1
Superintendent, Buildings and Grounds	1
Chief Stationary Engineer	2
Signal and Electrical Supervisor	2
Signal and Systems Engineer	2
Staff Assistant VII Special Projects	1
Powerhouse Electrical Supervisor II	2
Manager of Capital Finance	1
Deputy Director of Resource, Planning and Development	1
Chief Accountant	1
Supervising Fiscal Officer	1
Principal Administrative Analyst	1
Senior Administrative Analyst	1
Manager of Engineering Services	1
Manager of Construction Services	1
Manager of Project Management	1
Manager of Capital Planning	1
Project Manager	1
Principal Civil Engineer	1
Departmental Personnel Director	1
Contract Compliance Officer II	1
Contract Compliance Officer I	1
Chief, Protective Services and Investigation Bureau	1
Manager of Information Services	1
General Superintendent Cable Car and Rail	1
Superintendent Overhead Lines	1
Director Community Affairs	1
(Added by Ord. 380-94, App. 11/10/94; amended by Ord. 56-97, App. 3/6/97; Ord. 345-98, App. 11/19/98)	

SEC. 58.325. PUBLIC WORKS DEPARTMENT.

Designated Positions	Disclosure Categories
General Office	All 1
Director of Public Works	
Assistant to Director of Public Works	
Deputy Director of Public Works and Engineering	
Deputy Director of Public Works and Operations	
Claims Adjustor	

Office of Financial Management and Administration Deputy Director for Financial Management and Administration Financial Manager Chief of Computer Services Contract Administration Head	All 1
Bureau of Architecture City Architect Assistant City Architect	All 1
Bureau of Building Repair Public Building Maintenance and Repair Assistant Superintendent Public Building — Maintenance and Repair Superintendent	All 1
Bureau of Engineering Chief of Engineering Principal Civil Engineer Claims Adjuster Project Manager I Project Manager II Project Manager III Project Manager IV	All 1
Bureau of Environmental Services Street Cleaning and Planting Superintendent Street Cleaning and Planting Assistant Superintendent	All 1
Bureau of Street and Sewer Repair Superintendent of Street and Sewer Repair Assistant Superintendent of Streets and Sewer Repair Mobile Equipment Supervisor Assistant Mobile Equipment Supervisor	All 1
Bureau of Construction Management Bureau Chief Principal Engineer Senior Engineer Administrative Engineer Civil Engineer Associate Civil Engineer Assistant Civil Engineer Chief Surveyor Building Inspector Construction Inspector Cost Estimator	All 1

Construction Contract Specialist II
Construction Contract Specialist I
Junior Civil Engineer

Bureau of Street Use and Mapping All 1
Associate Civil Engineer

Bureau of Subdivision, Surveys and Mapping All 1
Bureau Chief
Senior Plan Checker
Chief Surveyor
Construction Inspector
Engineering Associate II
(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 311-92, App. 10/9/92; Ord. 380-94, App. 11/10/94; Ord. 56-97, App. 3/6/97; Ord. 345-89, App. 11/19/98)

SEC. 58.330. PURCHASING DEPARTMENT. (a) **Disclosure Category 2.** Persons in this category shall disclose all interests in real property.

(b) **Disclosure Category 3.** Persons in this category shall disclose all investments and business positions in business entities and income from any source which provides, or contracts with the City and County of San Francisco and its Purchasing Department to provide commodities or services to the City and County of San Francisco, or has provided commodities or services to the City and County of San Francisco within the last two years.

(c) **Disclosure Category 4.** Persons in this category shall disclose all investments and business positions in business entities and income from any source which provides, or contracts with the City and County of San Francisco to provide, or has provided within the last two years, commodities or services to either the Division of the Purchasing Department to which the person is assigned, or the Department (other than the Purchasing Department), to which the person is assigned.

Designated Positions	Disclosure Categories
Director of Purchasing	1
Assistant Director	2, 3
Supervising Purchaser	3
Senior Purchaser	3
Purchaser	3
Assistant Purchaser	3
Reproduction Manager	4
Senior Storekeeper	4
Supervising Parts Storekeeper	4
Principal Parts Storekeeper	4
Senior Parts Storekeeper	4
Parts Storekeeper	4
Storekeeper	4
Materials Coordinator	4
Manager, Fleet Services	4
Assistant Manager, Fleet Services	4

(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 311-92, App. 10/9/92; Ord. 345-98, App. 11/19/98)

SEC. 58.335. REAL ESTATE DEPARTMENT.

Designated Positions

Director of Property
 Assistant Director of Property
 Principal Real Property Officer
 Senior Real Property Officer
 Real Property Officer
 Head Accountant

Disclosure Categories

All 1

(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 311-92, App. 10/9/92)

SEC. 58.340. COUNTY CLERK.

Designated Positions

County Clerk

Disclosure Categories

1

(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 380-94, App. 11/10/94; Ord. 345-98, App. 11/19/98)

SEC. 58.345. RECREATION AND PARK DEPARTMENT. (a) **Disclosure Category 2.** Persons in this category shall disclose all investments and income from any source which leases, rents or operates from property under the jurisdiction of the Recreation and Park Commission, or which provides, or contracts with the City and County of San Francisco or the Recreation and Park Commission to provide, services (including construction, repair and maintenance), equipment, materials, supplies, vehicles, or other items of use to the Recreation and Park Commission or the Recreation and Park Department, or which may foreseeably do so in the future, or which has done so within two years prior to any time period covered by a statement of economic interest, and his or her status as a director, officer, partner, trustee, employee, or holder of any management position in any such business entity.

(b) **Disclosure Category 3.** Persons in this category shall disclose all income from, and investments in, any business entity which does business in the jurisdiction, or has done business in the jurisdiction within two years prior to any time period covered by a statement of economic interest, or which may foreseeably do business in the jurisdiction in the future, and his or her status as a director, officer, partner, trustee, employee, or holder of any management position in any such business entity.

Designated Positions

Recreation and Park Commissioners
 General Manager
 Executive Secretary to General Manager
 Special Assistant XVI
 Special Assistant XIII (Executive Assistant to
 the General Manager)
 Executive Secretary III
 Recreation Superintendent

Disclosure Categories

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Parks Superintendent	1
Arboretum Director	2
Golf Director	2
Zoo Director	1
Property Manager	2
Director of Personnel	2
Marina Manager	2
Assistant Superintendent of Parks/Structural Maintenance	2
Assistant Superintendent of Parks	2
Assistant Superintendent Recreation	2
Assistant Recreation Supervisor	2
IS Administrator—Supervisor	2
Principal Administrative Analyst	2
Senior Administrative Analyst	2
Civil Engineer	1
Architect	2
Assistant Landscape Architect	2
Planner IV	2
Planner III	2
Chief Stationary Engineer	2
(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 190-90, App. 5/24/90; Ord. 311-92, App. 10/9/92; Ord. 345-98, App. 11/19/98)	

SEC. 58.350. REDEVELOPMENT AGENCY. (a) **Disclosure Category 2.** Persons in this category shall disclose all sources of income, investments, and all business positions in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management.

(b) **Disclosure Category 3.** Persons in this category shall disclose all income from and investments in businesses that manufacture or sell supplies of the type utilized by the Agency.

(c) **Disclosure Category 4.** Persons in this category shall disclose all investments in and income from all banks, savings and loan associations, insurance companies, investment companies, stockbrokers, title companies, financial consultants, data processing firms or consultants, but shall not include personal checking or savings accounts or certificates of deposit.

(d) **Disclosure Category 5.** Persons in this category who come within the definition of consultant as stated below shall disclose all sources of income, interests in real property and investments.

“Consultant” means any natural person who provides, under contract, information, advice, recommendation or counsel to the Agency, provided, however, that ‘consultant’ shall not include a person who:

(A) Conducts research and arrives at conclusions with respect to his or her rendition of information, advice, recommendation or counsel independent of the control and direction of the Agency or of any Agency official, other than normal contract monitoring; and

(B) Possess no authority with respect to any Agency decision beyond the rendition of information, advice, recommendation or counsel.

Designated Positions*	Disclosure Categories
Administrative Services Manager	1
Agency General Counsel	1
Architect	1
Architecture Supervisor	1
Assistant Development Specialist	1
Assistant Harbormaster	2
Associate Civil Engineer	1
Building/Construction Inspector I	1
Building/Construction Inspector II	1
Civil Engineer (Project Engineers)	1
Commissioners	1
Community Services Manager	1
Construction Coordinator	1
Consultants**	5
Contract Compliance Specialist I	1
Contract Compliance Specialist II	1
Contract Compliance Supervisor	1
Deputy Executive Director	1
Deputy General Counsel	1
Development Services Manager	1
Development Specialist	1
Engineering and Construction Supervisor	1
Environmental Assessment Specialist	1
Executive Director	1
Finance and Information Services Manager	1
Financial Systems Accountant	4
Harbormaster	2
Human Resources Manager	1
Information Systems Supervisor	3, 4
Personnel Analyst	2
Planning Supervisor	1
Principal Planner	1
Program Manager	1
Project Area Committee Members	1
Project Area Services Supervisor	1
Project Manager	1
Property Management Supervisor	1
Property Management Specialist	1
Public Affairs Officer	1
Purchasing Assistant	3
Records and Information Supervisor	2
Relocation Supervisor	1
Senior Architect	1
Senior Attorney	1
Senior Civil Engineer	1
Senior Development Specialist	1
Senior Financial Analyst	1

Senior Landscape Architect	1
Senior Personnel Analyst	1
Senior Planner	1
Senior Project Manager	1
Staff Associate IV	1
Staff Associate V	1
Staff Associate VI	1
Staff Attorney I	1
Staff Attorney II	1

* While the listed titles of the designated positions are approved classification titles, occasionally titles are changed or working titles are assigned. In these events, the new titles will be substituted into this Code with the same disclosure categories as were applicable to the old titles.

** With respect to consultants, the Executive Director may determine in writing that a particular consultant is hired to perform a range of duties that is limited in scope and thus is not required to comply with the disclosure requirements described in this Section. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of the disclosure requirements. The Executive Director shall forward a copy of this determination to the Clerk of the Board of Supervisors. Nothing herein excuses any consultant from any other provisions of this Conflict of Interest Code. (Added by Ord. 3-90, App. 1/5/90; amended by Ord. 311-92, App. 10/9/92; Ord. 380-94, App. 11/10/94; Ord. 56-97, App. 3/6/97; Ord. 201-98, App. 6/19/98; Ord. 345-98, App. 11/19/98)

SEC. 58.357. RELOCATION APPEALS BOARD.

Designated Positions	Disclosure Categories
Board Member	1
Executive Director	1
(Added by Ord. 190-90, App. 5/24/90)	

SEC. 58.365. RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD. Disclosure Category 2. Persons in this category shall disclose all interests in real property, and all income from, investments in, and business positions held in any business entity with an interest in residential real property in the jurisdiction, or which may foreseeably acquire such an interest, or which has acquired such an interest within two years prior to the time period covered in a statement of economic interests. An official occupies a "business position" if he or she is a director, officer, partner, trustee, employee or holds any position of management.

Designated Positions	Disclosure Categories
Board Members	2
Executive Director	2
Rent Board Hearing Officer	2
(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 190-90, App. 5/24/90; Ord. 311-92, App. 10/9/92)	

SEC. 58.370. RETIREMENT SYSTEM.

Designated Positions	Disclosure Categories
Member, Retirement Board	See Sec. 58.600
Executive Director	See Sec. 58.600
Executive Assistant to the Executive Director	1
Actuary	1
Chief Investment Officer	See Sec. 58.600
Chief Accountant	1
Senior Investment Officer	See Sec. 58.600
Administrator, Retirement Services	1
Security Analyst	1
Consultant*	1

* With respect to consultants, the Retirement Board may determine in writing that a particular consultant is hired to perform a range of duties that is limited in scope and thus is not required to comply with the disclosure requirements described in this category. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Retirement Board shall forward a copy of this determination to the Board of Supervisors. Nothing herein excuses any such consultant from any other provision of this Conflict of Interest Code. (Added by Ord. 3-90, App. 1/5/90; amended by Ord. 190-90, App. 5/24/90; Ord. 380-94, App. 11/10/94; Ord. 56-97, App. 3/6/97; Ord. 345-98, App. 11/19/98)

SEC. 58.375. SAN FRANCISCO COUNTY TRANSPORTATION AUTHORITY.

Designated Positions	Disclosure Categories
Executive Director	1
Director, Plans and Programs	1
Director, Management and Finance	1
(Added by Ord. 190-90, App. 5/24/90; amended by Ord. 311-92, App. 10/9/92; Ord. 380-94, App. 11/10/94; Ord. 345-98, App. 11/19/98)	

SEC. 58.380. SHERIFF. Disclosure Category 2. Persons in this disclosure category shall disclose all investments and business positions in business entities, and income from any source, which manufactures, distributes, sells or provides services, supplies, materials, machinery or equipment of the type used by the Sheriff's Office.

Designated Positions	Disclosure Categories
Sheriff	1
Undersheriff	1
Assistant Sheriff	1
Director County Parole	2
Attorney	1
(Added by Ord. 190-90, App. 5/24/90; amended by Ord. 380-94, App. 11/10/94)	

SEC. 58.382. PRIVATE INDUSTRY COUNCIL. (a) **Disclosure Category 2.** Persons in this disclosure category shall disclose all investments and positions of management in, and income from any organization that, during the period being reported, has proposed to enter into or has entered into a subcontract or other financial agreement with the Private Industry Council of San Francisco, Inc.

(b) **Disclosure Category 3.** Members of the San Francisco Private Industry Council and of its Audit, Planning, Refugee, or any other committee that selects or recommends the selection of subcontractors of the Private Industry Council of San Francisco, Inc. shall disclose all income from, and investments and positions of management in any organization that, during the period being reported, has been a candidate for such a subcontract subject to the Council's selection.

Designated Positions	Disclosure Categories
Member, San Francisco Private Industry Council	3
Member, Designated Committee of the Council	3
President	2, 3
Vice Presidents	2, 3
Director, Welfare-to-Work	2, 3
Controller	2, 3
Consultants*	1

* With respect to consultants, the President of the Private Industry Council may determine in writing that a particular consultant is hired to perform a range of duties that are limited in scope and thus is not required to comply with the disclosure requirements described in this category. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The President shall forward a copy of this determination to the Board of Supervisors. Nothing herein excuses any such consultant from any other provision of this Conflict of Interest Code. (Added by Ord. 190-90, App. 5/24/90; amended by Ord. 380-94, App. 11/10/94; Ord. 56-97, App. 3/6/97; Ord. 345-98, App. 11/19/98)

SEC. 58.383. SAN FRANCISCO UNIFIED SCHOOL DISTRICT. Disclosure Category 1. Real Property. Persons in this category shall disclose the following:

- (a) Interests in real property which is located in whole or in part either:
 - (1) Within the boundaries of the District; or
 - (2) Within two miles of the boundaries of the District, including any leasehold, beneficial or ownership interest or option to acquire such interest in real property, if the fair market value of the interest is greater than \$1,000.

Interests in real property of an individual include a business entity's share of interest in real property of any business entity or trust in which the designated employee or his or her spouse owns directly, indirectly or beneficially, a 10 percent interest or greater.

(b) Investments in or income from business entities which are contractors or subcontractors which are or have been within the previous two-year period engaged in the performances of building construction or design within the District.

(c) Investments in or income from business entities engaged in the acquisition or disposal of real property within the jurisdiction.

Investment includes any financial interest a pro rata share of investments of any business entity or trust in which the designated employee or his or her spouse owns, directly, indirectly or beneficially, a 10 percent interest or greater.

Investment does not include a time or demand deposit in a financial institution, shares in a credit union, any insurance policy or any bond or other debt instrument issued by any government or government agency. No investment or interest in real property is reportable unless its fair market value exceeds \$1,000. No source of income is reportable unless the income received by or promised to the public official aggregates \$250 in value during the preceding 12-month reporting period.

Disclosure Category 2. Supplies and Equipment. Persons in this category shall disclose investments in or income from business entities which manufacture or sell supplies, books, machinery or equipment of the type utilized by the department for which the designated employee is manager or director. Investments include interests described in Category 1.

Disclosure Category 3. Work or Services. Persons in this category shall disclose investments in or income from business entities which are contractors or subcontractors engaged in the performance of work services of the type utilized by the department for which the designated employee is manager or director. Investments include the interests described in Category 1.

Designated Positions	Disclosure Categories
Members of the Board of Education	1, 2, 3
Superintendent of Schools	1, 2, 3
Deputy Superintendent	1, 2, 3
Associate Superintendent	1, 2, 3
Assistant Superintendent	1, 2, 3
Special Assistant to the Superintendent	1, 2, 3
Executive Assistant to the Superintendent	1, 2, 3
Chief Financial Officer/Director of Business Services	1, 2, 3
Director, Transportation	2, 3
Director, Food Services	2, 3
Director, Buildings and Grounds	1, 2, 3
Director (Certificated)	1, 2, 3
Director, Facilities Planning	1, 2, 3
Director, Custodial Services	2, 3
Program Director	1, 2, 3
Coordinator (Certificated)	1, 2, 3
Manager, Payroll Control	1, 2, 3
Manager, Data Processing	1, 2, 3
Project Manager II & III	1, 2, 3
Assistant Fiscal Officer	1, 2, 3
Principal Administrative Analyst	1, 2, 3
Head Accountant	1, 2, 3
Principal Accountant	1, 2, 3
Supervising Purchaser	1, 2, 3
Senior Purchaser	1, 2, 3
Purchaser	1, 2, 3

Architect	3
General Manager, KALW	2, 3
(Added by Ord. 190-90, App. 5/24/90; Ord. 380-94, App. 11/10/94; Ord. 56-97, App. 3/6/97; Ord. 345-98, App. 11/19/98)	

SEC. 58.385. HUMAN SERVICES COMMISSION. (a) **Disclosure Category 2.** Persons in this category shall disclose all investments and business positions in business entities and income from any source which provides, or contracts with the City and County of San Francisco and its Department of Human Services to provide, services, supplies, materials, machinery or equipment to the Human Services Department.

(b) **Disclosure Category 3.** Persons in this category shall disclose all investments and business positions in business entities and income from any source which owns or operates any board and care home, foster institution for children or home health agency in the jurisdiction.

(c) **Disclosure Category 4.** Persons in this category shall disclose all investments and business positions in business entities and income from any source which is engaged in the sale of products or services related to data processing.

Designated Positions	Disclosure Categories
Members, Human Services Commission	1
Executive Director	1
Deputy Directors	1
Special Assistants to the Executive Director for Welfare Reform	2
Director, Planning and Budget	1
Manager, Budget and Fiscal Operations	1
Program Manager, Family and Children's Services	2, 3
Program Manager, Adult Services	2, 3
Program Manager, County Adult Assistance Programs	2
Manager, Investigations	3
Director, Support Services	2
Supervisor, Materials and Supplies	2
Director, Contracts	2
Director, Information Technology	4
(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 311-92, App. 10/9/92; Ord. 380-94, App. 11/10/94; Ord. 345-98, App. 11/19/98)	

SEC. 58.390. TREASURER-TAX COLLECTOR. (a) **Disclosure Category 2.** Persons in this category shall disclose all investments in any business entity and income from any source which provides services, supplies, materials, machinery or equipment to the Treasurer-Tax Collector Department, or which may foreseeably do so in the future, or which has done so within two years prior to any time period covered by a statement of economic interest.

Designated Positions	Disclosure Categories
Treasurer	See Sec. 58.600
Chief Assistant Treasurer	See Sec. 58.600
Cash Management and Investment Officer	See Sec. 58.600
Assistant Cash Management and Investment Officer	See Sec. 58.600
Principal Administrative Analyst (Business Tax)	2
Head Accountant (Administration)	2
Tax Collector	1
Deputy Tax Collector	1
Tax Collector Attorney	1
Chief Business Tax Auditor	1
Director, Bureau of Delinquent Revenue	1
Chief Investigator	1
Director, Real Estate Division	1
Senior Administrative Analyst	2
Director, Taxpayers Assistance Unit (TPA)	2
Senior Management Assistant (Business Tax)	2
Special Assistant XV	2
Special Assistant XIII	2
(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 190-90, App. 5/24/90; Ord. 311-92, App. 10/9/92; Ord. 380-94, App. 11/10/94; Ord. 56-97, App. 3/6/97; Ord. 345-98, App. 11/19/98)	

SEC. 58.405. WAR MEMORIAL AND PERFORMING ARTS CENTER.

(a) **Disclosure Category 2.** Persons in this category shall disclose all investments in, income from, or any management or business position in connection with real estate uses for the performing arts in San Francisco, with entities which book the performing arts or individual performers, with architectural and construction firms or consultants, food, beverage, catering, program, souvenir, or ticketing concession firms, and building maintenance and theatrical equipment and supply firms or consultants.

(b) **Disclosure Category 3.** Persons in this category shall disclose all investments in, income from, or business positions in, building maintenance and theatrical equipment and supply firms or consultants.

Designated Positions	Disclosure Categories
Trustees	2
Managing Director	2
Assistant Managing Director/Executive Secretary	2
Building and Grounds Superintendents	3
Janitorial Services Supervisor	3
(Added by Ord. 3-90, App. 1/5/90)	

SEC. 58.500. COURT POSITIONS. The following agencies are not included in this ordinance because, under the Political Reform Act, the Board of Supervisors does not act as the Code reviewing body for these agencies:

Superior Court
Municipal Court
Juvenile Court
Juvenile Justice Commission
Adult Probation.

(Added by Ord. 3-90, App. 1/5/90; amended by Ord. 190-90, App. 5/24/90)

SEC. 58.600. POSITIONS DESIGNATED BY STATE — FILING OFFICIAL. Members of the Board of Supervisors, District Attorney, Mayor, City Attorney, Treasurer, members of the Planning Commission, public officials who manage public investments, and candidates for any of these offices at any election, and any other officer or candidate for office who may be subject to the provisions of Government Code Section 87200, shall file one original of all statements of economic interests with the Ethics Commission, the filing official, who shall make and retain a copy and forward the original to the California Fair Political Practices Commission which shall be the filing officer. (Added by Ord. 3-90, App. 1/5/90; amended by Ord. 190-90, App. 5/24/90; Ord. 386-95, App. 12/14/95; Ord. 56-97, App. 3/6/97; Ord. 345-98, App. 11/19/98)

Chapter 60

ASSISTED HOUSING PRESERVATION ORDINANCE

Sec. 60.1.	Title.
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Sec. 60.5.	Notice of Intent to Prepay and/or Terminate.
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Sec. 60.7.	Relocation Benefits for Displacement Due to Conversion.
Sec. 60.8.	Right of Qualified Entities to Receive Offer for Purchase of an Assisted Housing Development.
Sec. 60.9.	Expiration of Rent Subsidy Contracts; Disclosure.
Sec. 60.10.	Administrative Relief.
Sec. 60.11.	Civil Actions.
Sec. 60.12.	Civil Penalties.
Sec. 60.13.	Rules and Regulations.
Sec. 60.14.	Severability.

SEC. 60.1. TITLE. This Assisted Housing Preservation Ordinance is enacted as Chapter 60 of the Administrative Code of the City and County of San Francisco. (Added by Ord. 332-90, App. 10/3/90)

SEC. 60.2. PURPOSES. The purposes of this Chapter are to assist public and private efforts to ensure that housing affordable to very low, low and moderate income households is not permanently removed from the housing stock, to preserve and promote a supply of housing that is affordable to very low, low and moderate income residents in the community, to protect the diversity of the community by preventing displacement of very low, low and moderate income households, and to prevent homelessness.

This Chapter is enacted:

(a) To assist efforts to ensure that the stock of affordable rental units in the community is preserved;

(b) To assist efforts to ensure that very low, low and moderate income households are not unnecessarily displaced from subsidized housing units due to the owner's prepayment of loans or termination of rent subsidies which have the effect of terminating restrictions on occupancy, rent, and use of such units;

(c) To ensure that the City, concerned nonprofit organizations and affected tenant households receive adequate notice that affordability restrictions may terminate to enable them to respond to the potential problems created by conversions of subsidized rental units; and

(d) To ensure that the subsidized rental unit occupants are provided with information and assistance in the event of conversion of such units to market-rate housing. (Added by Ord. 332-90, App. 10/3/90)

SEC. 60.3. FINDINGS. The Board of Supervisors finds that:

(a) For more than 50 years, federal, state and local governmental entities have initiated and maintained various housing programs designed to provide housing affordable to low and moderate income households.

(b) Since the inception of these housing programs, demand for affordable subsidized rental units has consistently exceeded the supply of such units.

(c) On May 12, 1989, the Mayor's Housing Advisory Committee for the City and County of San Francisco issued the draft Affordable Housing Action Plan For San Francisco. The report concludes that "[t]he demand for housing, especially for housing affordable to households earning less than moderate income, greatly exceeds the availability of such housing" and that the "preservation and improvement of the local existing affordable housing stock, particularly for low and very low income households, must be made a priority."

(d) The Federal Home Loan Bank has determined in the Federal Home Loan Bank Housing Vacancy Survey conducted in September of 1988 that the vacancy rate for all multi-family housing in San Francisco was approximately 1.6 percent.

(e) According to the Inventory of Federally-Subsidized Low-Income Units at Risk of Conversion issued on March 1, 1989 by the California Coalition for Rural Housing and the California Housing Partnership Corporation, approximately 83 privately owned developments assisted with Federal funds are located in San Francisco. Some of these assisted developments contain units affordable to very low, low and moderate income households which are at risk of conversion to market-rate rental or ownership housing by the year 2008. These developments include approximately 7,500 units carrying project-based rental subsidies under the Section 8 program. Approximately 3,900 of these units are at risk of conversion to market-rate housing due to prepayment of federal loans or termination of Section 8 subsidies. Approximately 4,000 additional units already in nonprofit ownership are also at risk due to impending expiration of Section 8 contracts.

(f) The California State Legislature has declared that there exists a severe shortage of housing affordable to very low, low and moderate income households, that such shortage is inimical to the safety, health and welfare of the residents of the state, and that it is an economic benefit to the state and a public purpose to encourage the availability of adequate housing for very low, low and moderate income households.

(g) Section 101.1(b)(3) of the San Francisco Planning Code establishes as a Priority Policy for the San Francisco Master Plan "[t]hat the City's supply of affordable housing be preserved and enhanced." The Housing Element of the San Francisco General Plan establishes as one of its primary goals the preservation and expansion of the housing stock affordable to very low, low and moderate income households within the City. The California State Legislature has recently enacted provisions requiring the City to include in its Housing Element an analysis of existing assisted housing developments for which subsidies and applicable use restrictions may be terminated during the next 10 years, and a program for preserving such affordable units. The Legislature has also enacted provisions which clarify that the Low and Moderate Income Housing Fund moneys administered pursuant to the Health and Safety Code by redevelopment agencies may be expended for assisted housing preservation efforts.

(h) The City's Housing Assistance Plan, Community Development Objectives, and Comprehensive Homeless Assistance Plan all establish the preservation and expansion of the supply of affordable housing as major policy objectives of the City.

(i) Under the federal housing programs designed to create and maintain privately owned, publicly assisted housing affordable to households of very low, low and moderate income, including but not limited to the Section 221(d)(3), Section 236, Section 8 New Construction, Substantial Rehabilitation and Moderate Rehabilitation Programs, and the Section 8 Loan Management Set Aside Program, some persons owning federally subsidized housing units may prepay federally subsidized loans prior to the end of the loan term, and/or are given the option upon renewal dates of rental subsidies not to renew such subsidies. The City recognizes the rights of owners of such housing units contained in such contracts with the federal government and that the owners of such housing are entitled by law to a fair return on their investment.

(j) The owners of such housing units have enjoyed substantial financial benefits from participation in such government programs, including but not limited to:

(1) Programs such as the Builder Sponsor Profit And Risk Allowance, which allowed original owners to credit a noncash contribution toward the 10 percent equity requirement;

(2) Calculation of the six percent return on the basis of 10 percent of project value, regardless of the owner's actual cash investment;

(3) Operating income subsidies;

(4) Capital improvement loan subsidies;

(5) Reduction of debt service in insured projects;

(6) Mortgage modification, forbearance and workout policies which substantially reduced risk of foreclosure;

(7) HUD regulatory preemption of local rent control; and

(8) Tax benefits under the Tax Reform Act of 1976, the Economic Recovery Tax Act of 1981 and the Deficit Reduction Act of 1984. Among the most significant of these tax benefits was the application of accelerated depreciation schedules to assisted housing developments. For example, in 1981, the United States Congress amended the United States Revenue Code to enable the owner of a low-income housing development to take advantage of special accelerated depreciation rules. Under the 1981 amendments, such developments were allowed to be depreciated for tax purposes using the double declining balance method over a shortened 15-year period. This change in the Internal Revenue Code created a powerful financial incentive to increase the depreciable basis of a development. Subsequent to the effective date of this change, many former owners of assisted housing developments participated in transfers of ownership at inflated prices which greatly increased the depreciable basis of the developments, and the tax benefits of ownership. In some cases, these tax benefits were abused when transfers involved the use of unenforceable debt obligations to pay an inflated purchase price and thus the depreciable basis. In these transactions, loans which required no current payment of principal or interest, or which carried no foreclosure remedy for default, were used primarily to inflate depreciable basis above the then-current

value of the development. Such loans have little or no economic value other than as a device to inflate depreciable basis and increase tax benefits. The creation of these "paper" loans ceased when the Internal Revenue Code was amended by the Tax Reform Act of 1986. The 1986 amendments removed the financial incentives to inflate depreciable basis by instituting the passive activity and passive loss rules, by lengthening the period of depreciation for assisted housing developments to 27½ years, and by changing the method from double declining balance to straight line. Therefore, the Board of Supervisors finds that the principal or interest due under loans created between the effective dates of the 1981 and 1986 amendments to the Internal Revenue Code, which are not required to be paid currently from the cash flow generated by operation of a development or which could not be foreclosed upon for failure to make payments, should not be included in the Fair Return Price.

(k) The prepayment of federally subsidized loans and the failure to renew rental subsidies under federal programs will terminate federal rent restrictions and will result in loss of housing units affordable to and the displacement of very low, low and moderate income households.

(l) In the San Francisco Bay Area, 18,820 units in 186 projects providing housing for thousands of very low, low and moderate income households may be directly and adversely affected by the prepayment of Section 221(d)(3), Section 236, and Section 8 loans and the nonrenewal of Section 8 project-based subsidies. This regional loss of housing units affordable to very low, low and moderate income households will impact all communities within the Bay Area. The California Legislature has declared that all communities have an obligation to provide a fair share of the region's housing needs for very low, low and moderate income households.

(m) Conversion of subsidized rental units to market-rate rental or ownership units will result in the displacement of very low, low and moderate income households residing in assisted housing developments, and will also result in a permanent loss from San Francisco's housing stock of housing units affordable to very low, low and moderate income households. The risk of such conversions constitutes a substantial and immediate threat to the welfare, health and safety of San Francisco's residents. Displacement of very low and low income households, the currently inadequate supply of affordable housing units and the lack of federal, state and local funds to produce a sufficient supply of such units, combine to force more people into already overburdened emergency shelters, and onto the streets.

(n) The loss of affordable rental units resulting from conversion will have an adverse impact on the goal of preserving and expanding the existing stock of affordable housing, as well as an adverse impact on the City's housing and service programs by placing additional burdens on the City's limited housing resources and limited resources for providing emergency shelter and associated services.

(o) Conversions of subsidized rental units to unsubsidized rental units present special problems which would create conditions detrimental to the health, safety and welfare of the San Francisco community. (Added by Ord. 332-90, App. 10/3/90)

SEC. 60.4. DEFINITIONS. (a) "Assisted housing development" or "development" shall mean any multifamily rental housing building, or group of buildings under common ownership, comprised of four or more rental units, which development has received or receives any public subsidy, including, but not limited to, a mortgage loan, a mortgage interest subsidy, mortgage insurance or a rent subsidy from a federal, state or local governmental body or agency, whose rent levels are restricted so as to be affordable to very low, low and moderate income households.

(b) "CHFA" shall mean the California Housing Finance Agency and shall include any delegatee of CHFA when such delegatee acts to administer a CHFA program.

(c) "City" shall mean the City and County of San Francisco.

(d) "Conversion" shall mean any of the following with regard to a unit which was (i) a subsidized rental unit on the effective date of this Chapter, and (ii) is located in a development as to which prepayment, termination or repurchase has occurred:

(1) A rent increase, resulting in a rent exceeding the rental payment allowed under the applicable use restrictions for a unit in the assisted housing development;

(2) Demolition or other construction work on the unit which renders the unit uninhabitable, is commenced; or

(3) A change in use of the development of any unit within a development is commenced.

(e) "Conversion date" shall mean the date on which conversion occurs.

(f) "Converted unit" shall mean a subsidized rental unit that was subject to conversion.

(g) "Director of Housing" shall mean the Deputy Mayor for Housing and Neighborhoods of the City and County of San Francisco and his or her designee, or if such position ceases to exist, such other qualified City official as shall be designated by the Mayor as the Mayor's agent for the enforcement of this Chapter.

(h) "HUD" shall mean the United States Department of Housing and Urban Development, and shall include the Federal Housing Administration ("FHA") and any delegatee of HUD when such delegatee is acting to administer a HUD program.

(i) "Low income household" shall mean any household with an adjusted gross income which does not exceed 80 percent of median income.

(j) "Median income" shall mean the median gross annual income, adjusted for household size, for households in the statistical area, as published periodically by HUD. In the event that such income determinations are no longer published by HUD or are not updated for a period of at least 18 months, "median income" shall mean the median annual gross income, adjusted for household size, for households in San Francisco County, California, published periodically by the California Department of Housing and Community Development ("HCD"). In the event that such income determinations are no longer published by HCD, or are not updated for a period of at least 18 months, the City shall determine the median income using standards and methods reasonably similar to those standards and methods used by HUD or HCD when it last published a median income calculation.

(k) "Moderate income household" shall mean any household with an adjusted gross income which does not exceed 95 percent of median income.

(l) "Notice of intent to prepay and/or terminate" shall mean the notice the owner provides to the Director of Housing and to Tenant Households 18 months prior to prepayment or termination, as set forth in Section 60.5 of this Chapter.

(m) "Owner" shall be defined to mean the person, partnership, or corporation or other entity that is a party to a contract with HUD or other public body which provides a mortgage, mortgage assistance, mortgage insurance, or rent subsidy, or any spouse, employee, agent, partner, master lessee, business affiliate or associate, or successor in interest of such person, partnership or corporation that receives or demands rent for a subsidized rental unit.

(n) "Person" shall mean any natural person, corporation, firm, partnership, association, joint venture, government (domestic or foreign), governmental or political subdivision or agency, or other similar entity.

(o) "Prepayment" shall mean the prepayment, prior to the expiration of the full, original, stated term of the loan, of any loan secured by an assisted housing development which loan was insured or subsidized at its inception by a federal, state or local governmental body or agency, including, but not limited to, loans made, insured or subsidized under the authority of the following provisions of federal and state law, if such prepayment would have the effect of terminating the use restrictions applicable to such assisted housing development, without substitution of substantially similar use restrictions:

(1) New Construction, Substantial Rehabilitation, and Loan Management Set-Aside Programs under Section 8 of the United States Housing Act of 1937, as amended, 42 U.S.C. 1437(f);

(2) Section 213 of the National Housing Act of 1934, as amended, 12 U.S.C. 1715e;

(3) The Below-Market-Interest-Rate Program under Section 221(d)(3) of the National Housing Act of 1934, as amended, 12 U.S.C. Section 1715 l(d)(3);

(4) Section 236 of the National Housing Act of 1934, as amended, 12 U.S.C. Section 1715z-1.

Prepayment shall not include the expiration of the full original, stated term of a loan.

(p) "Prepayment date" shall mean the date prepayment, termination or repurchase occurs.

(q) "Rent" shall mean the monetary consideration paid by a tenant household for the use or occupancy of a unit, and shall not include a utility allowance.

(r) "Replacement unit" shall be defined to mean a unit which satisfies the following standards:

(1) Is decent, safe, sanitary and comparable to the converted unit, with a quality of construction conforming to current building code standards and adequate in number of rooms and living space to accommodate the tenant household of the converted unit being replaced.

(2) Is located in the City in an area (i) not subjected to unreasonably adverse environmental conditions from either natural or manmade sources, (ii) not generally less desirable than the converted unit with respect to public utilities, public and commercial facilities and neighborhood conditions, including schools and municipal services, and (iii) reasonably accessible to the present or potential places of employment of the members of the tenant household of the converted unit being

replaced; and

(s) "Repurchase" shall mean purchase by an owner or its related entity of a development or any portion thereof, following foreclosure or transfer by deed in lieu of foreclosure, which foreclosure or transfer terminates the applicable use restrictions, when the building included subsidized rental units immediately prior to foreclosure or transfer, and the building was owned by the same owner prior to foreclosure or transfer in lieu of foreclosure, and new, substantially similar use restrictions are not substituted for such terminated use restrictions. For the purposes of this Chapter, "related entity" means any of the following:

(1) A spouse, parent, child, or other individual related to the owner by a tie of blood, marriage, adoption or operation of law;

(2) A partnership, if the owner is either a general or a limited partner of the partnership;

(3) A corporation, if the owner serves on the board of directors of the corporation, or if the owner is a holder of 10 percent or more of any class of the outstanding stock of the corporation; or

(4) Any other business entity for which the owner has primary or controlling authority for management of the business.

(t) "Section 8" shall mean Section 8 of the United States Housing Act of 1937, as amended, 42 U.S.C. Section 1437f.

(u) "Statistical area" shall mean the San Francisco-Oakland Metropolitan Area.

(v) "Subsidized rental unit" shall mean any unit in an assisted housing development.

(w) "Tenant household" shall mean a person or group of persons entitled by written or oral agreement, subtenancy approved by the owner, or sufferance, to occupy a unit to the exclusion of others.

(x) "Tenant association" shall mean a group of tenants who have formed a nonprofit corporation, limited equity cooperative corporation, unincorporated association, or other entity or organization whose primary purpose is the preservation, for current and subsequent tenants, of the affordability of the subsidized rental units in which tenants reside.

(y) "Termination" shall mean terminating or failing to renew a rent subsidy contract with HUD or CHFA prior to the expiration of the full term of such contract, which contract may be unilaterally renewed by an owner, including, but not limited to contracts entered into pursuant to: (i) Section 8, which contracts are renewable by an owner in five-year increments during the contract term, but not including any contracts entered into pursuant to the Section 8 Existing Housing Program (24 C.F.R. Part 882); and (ii) Section 101 of the Housing and Urban Development Act of 1965, as amended. Termination shall not include the expiration of a full original, stated term of a rental subsidy contract, or the termination of the contract upon default by the owner.

(z) "Unit" shall mean a residential rental unit, and shall include a subsidized rental unit.

(aa) "Use restriction" shall mean any federal, state or local statute, regulation, ordinance, contract, regulatory agreement, covenant, or other restriction which imposes a maximum limitation on tenant household income as a condition

of eligibility for occupancy of a unit and (i) imposes a restriction on the maximum rents that could be charged for any of the units, or (ii) requires that rents for any of the units within an assisted housing development be reviewed by a governmental body or agency before the rents charged to tenant households may be increased.

(bb) "Very low income household" shall mean any household with an adjusted gross income which does not exceed 50 percent of the median income. (Added by Ord. 332-90, App. 10/3/90)

SEC. 60.5. NOTICE OF INTENT TO PREPAY AND/OR TERMINATE. (a) At least 18 months prior to the anticipated date of any prepayment and/or termination, any owner of an assisted housing development shall deliver to the Director of Housing and to each tenant household a notice of intent to prepay and/or terminate.

(b) The notice shall include the following information:

(1) The name and address of each owner of the assisted housing development. For any owner that is a corporation, the notice shall contain the names and addresses of the officers and directors of the corporation and of any person directly or indirectly holding more than 10 percent of any class of the outstanding stock of the corporation. For any owner that is a partnership or joint venture, the notice shall contain the names and addresses of the joint venturers or general and limited partners and shall specify the names and addresses of the natural persons who are the principal or controlling persons of such entities.

(2) The development's name, federal, state, or local program name and ID number, and address;

(3) The date of intended prepayment and/or termination and a brief description of the owner's plans for the development, including any timetables or deadlines for actions to be taken;

(4) The number of subsidized rental units in the development subject to prepayment and/or termination, and the number of subsidized rental units occupied by tenant households with persons age 62 or older, with disabled persons, or with children;

(5) The current rent schedule for the subsidized rental units;

(6) A brief description of any contracts concerning prepayment, termination or conversion the owner has made with any government agency, tenant household residing in the development, or other interested person or entity;

(7) The anticipated rent schedule after prepayment and/or termination;

(8) A statement signed by the owner under penalty of perjury certifying the date on which a copy of the notice was sent to the Director of Housing;

(9) A statement that the Planning Commission is required to hold a public hearing on the intended prepayment and/or termination within 90 days of receipt of the notice by the Director of Housing; and

(10) The telephone number of the Director of Housing or the designee of the Director of Housing to call to request additional written information about the owner's responsibilities and about the rights and options of tenant households.

(c) The 18-month notice period shall commence on the date the notice of intent to prepay and/or terminate has been received both by the Director of Housing and by all affected tenant households. The notice shall be deemed received

five days after it is given by deposit in the United States mail, return receipt requested. No owner shall cause, either by action or inaction, the prepayment and/or termination to occur prior to the expiration of the 18-month notice period.

(d) Within 21 days after the owner gives the notice of intent to prepay and/or terminate, the owner shall submit to the Director of Housing a statement certifying the following information under penalty of perjury:

(1) The owner's actual cash investment in the development, as defined by Section 60.8 (i)(1)(i) below, itemized by date of investment;

(2) The total amount of debt described in Section 60.8 (i)(1)(iii) below; and

(3) The total amount of debt described in Section 60.8 (i)(2)(iii) below.

(e) Upon 10 days' advance notice to the owner, the Director of Housing may require the owner to make available for inspection and auditing during normal business hours all financial books and records pertaining to the development. The Director of Housing shall make a copy of: (1) the notice of intent to prepay and/or terminate and (2) the statement required by Section 60.5(d) above, and shall make such copies, together with the results of such audit, available to any qualified entity upon receipt of written request by such qualified entity. (Added by Ord. 332-90, App. 10/3/90)

SEC. 60.6. PUBLIC HEARING ON PROPOSED PREPAYMENT AND/OR TERMINATION. (a) No later than 45 days after the date the Director of Housing receives the Notice of Intent to Prepay and/or Terminate, the Director shall notify the secretary of the City Planning Commission ("Commission") that such Notice was received and shall forward to the Commission a copy of such Notice. No later than 45 days after the secretary's receipt of notice from the Director pursuant to the preceding sentence, the Planning Commission shall hold a public hearing on the intended prepayment and/or termination. The failure of the Commission to hold a timely public meeting shall not prevent any person from exercising any of its rights with respect to the development.

(b) The Commission shall give notice of the date and location of the public hearing as customarily is given by the Commission for its public meetings. The notice shall contain a summary of the owner's plan for the development subsequent to prepayment and/or termination, including the date of any proposed prepayment, termination or conversion. The Commission shall also mail the notice of the public hearing to any interested person or organization that requests in writing to be notified of any particular public hearing on a proposed prepayment and/or termination, or of all public hearings on proposed prepayments and/or terminations.

(c) At least 14 days prior to the public hearing, the Director of Housing shall make available to any interested person copies of the notice of intent to prepay and/or terminate and any other information, including copies of this Chapter, that concerns the responsibilities of owners and the rights and options of tenant households.

(d) The Commission shall hear testimony and receive relevant documents from interested persons. The Commission shall consider the evidence and make specific written findings as to the following issues:

(1) The proposed date of prepayment, termination or conversion, if intended;

(2) The anticipated use of the assisted housing development subsequent to

prepayment, termination or conversion, if intended;

(3) The anticipated numbers of units in the development on any proposed prepayment date that will be occupied by very low, low and moderate income households;

(4) The numbers of households in each income category identified in Subparagraph (3), above, that will contain, on the prepayment date, one or more disabled tenants, who are children under the age of 18 or persons over the age of 62;

(5) For each unit occupied by a very low, low or moderate income household prior to the prepayment date, the rent increase anticipated upon conversion expressed both numerically and as a percentage of the rent charged immediately prior to the conversion date;

(6) The numbers of tenant households, by each category identified in Subparagraphs (3) and (4) above, likely to be displaced by conversion;

(7) The vacancy rates in the City for rental units which are available at affordable rent to very low, low and moderate income households; and

(8) The likely impact of prepayment and/or termination and subsequent conversion upon public and private nonprofit services.

For the purpose of this Section 600.6(d):

(1) "Affordable rent" shall mean the rent levels specified in Section 60.8(b)(2)(i) and (ii) below; and

(2) A tenant household shall be presumed to be likely to be displaced when the rent due subsequent to the conversion date exceeds affordable rent,

(e) Within 30 days after the hearing, the Commission shall complete and forward its findings under Section 60.6(d) above to the Clerk of the Board of Supervisors ("Board"). Subject to the time required for adequate public notice and preparation for review, the Board shall consider the Commission's findings at the Board's next regular meeting following receipt of the findings by the Clerk of the Board, and shall, by resolution, accept the findings or remand the findings to the Commission for revision. (Added by Ord. 332-90, App. 10/3/90)

SEC. 60.7. RELOCATION BENEFITS FOR DISPLACEMENT DUE TO CONVERSION. (a) For any very low, low, or moderate income household displaced by conversion, the owner shall pay to such tenant household an amount equal to the difference between (i) the annual rent or cost of ownership required for such household to lease or rent a unit for four years, or to purchase a dwelling unit, either of which is equivalent to a replacement unit and (ii) 30 percent of the actual gross annual income of the tenant household on the prepayment date; provided, however, that in no event shall the amount calculated under this Section 60.7(a) exceed \$5,250.

(b) For the purpose of this Section 60.7, a tenant household is "displaced" by conversion when, after the notice of intent to prepay and/or terminate is given, the tenant household receives a notice to quit, or vacates the unit due to inability to pay the increased rent due on the conversion date, and the facts constituting the grounds for eviction stated in Section 37.9(a)(2), (3), (4), (6), or (7) of the San Francisco Administrative Code, or any other just cause cognizable under federal or state regulation applicable to the development prior to the prepayment date, do not exist to justify eviction. A tenant household shall be presumed to be unable to pay

the rent due on the conversion date if such rent exceeds the rent specified in Section 60.8(b)(2)(ii). The tenant household shall not be considered to be displaced by conversion if the tenant household is evicted for nonpayment of the rent due prior to the conversion date.

(c) A tenant household displaced by conversion shall be entitled to receive the amount due under Section 60.7(a) prior to but as a condition of, vacating the unit.

(d) The requirement contained in Section 60.7(a) above shall not apply to any assisted housing development which is sold or otherwise transferred to a qualified entity pursuant to Section 60.8 below, or if the owner provides to the tenant household, prior to the conversion date, a replacement unit which is immediately available for occupancy. (Added by Ord. 332-90, App. 10/3/90)

SEC. 60.8. RIGHT OF QUALIFIED ENTITIES TO RECEIVE OFFER FOR PURCHASE OF AN ASSISTED HOUSING DEVELOPMENT. (a) Any owner of an assisted housing development required by this Chapter to give notice of intent to prepay and/or terminate, or to give the notice of expiration required by Section 60.9, below, shall not sell or otherwise transfer the development, or any portion thereof, unless the owner proposing such sale or transfer shall first have provided qualified entities the opportunity as described in this Section 60.8 to purchase the development.

(b) A "qualified entity" within the meaning of this Chapter means an entity that (x) is a government entity; or (y) is described in Section 501(c)(3) and is exempt from taxation under Section 501(a) of the Internal Revenue Code of 1986, and is (A) the tenant association of the development, if any, (B) a nonprofit public benefit corporation or (C) a limited partnership with a nonprofit public benefit corporation as general partner, and which:

(1) Has demonstrated, to the reasonable satisfaction of the Director of Housing, the capability, either by itself or through a management agent, to manage the development for the development's remaining useful life;

(2) Agrees, in a written certification to the owner and to the Director of Housing and through the recording of the document described in Section 60.8(n), to obligate itself and any successors in interest to maintain the assisted housing development, for its remaining useful life, for occupancy either in (x) the same percentage of very low, low and moderate income households that occupied the units on the date the owner gave notice of intent to prepay and/or terminate or (y) the percentages specified in existing use restrictions, whichever yields lower rents, at monthly rents not exceeding the lower of:

(i) The rents specified in the existing use restrictions; or

(ii) (A) The greater of $\frac{1}{2}$ of (1) 30 percent of 40 percent of median income, or (2) 30 percent of actual tenant household income, less a utility allowance, for each unit occupied by a very low income household; and (B) the greater of $\frac{1}{2}$ of: (1) 30 percent of 70 percent of median income, or (2) 30 percent of actual tenant household income, less a utility allowance, for each unit occupied by a low income household; and (C) the greater of $\frac{1}{2}$ of: (1) 30 percent of 90 percent of median income, or (2) 30 percent of actual tenant household income, less a utility allowance, for each unit occupied by a moderate income household;

(3) Has demonstrated, to the reasonable satisfaction of the Director of Housing, a commitment to seek, diligently and in good faith, any additional subsidies that may become available to increase the percentage of units available for occupancy by very low income households at a rent not exceeding the amount specified in Section 60.8(b)(2)(ii) above;

(4) Does not have among its directors, general partners, shareholders or other persons with a financial interest in the entity, a majority of persons who have converted subsidized rental units or have given a notice of intent to prepay and/or terminate; and

(5) Is not a related entity of the owner.

(c) Any person may petition the Director of Housing to determine whether a person claiming to be a qualified entity is a qualified entity. Upon written request of the Director of Housing, any person claiming to be a qualified entity shall submit to the Director of Housing, within 30 days of receipt of such request, written documentation supporting the conclusion that that person is a qualified entity. Such documentation shall include a statement by an authorized officer of the entity attesting under penalty of perjury to the accuracy and completeness of the facts stated in such documentation. Upon receipt the Director of Housing shall make such documentation available for public inspection and copying upon written request by any interested person. The Director of Housing shall promptly make a determination after receiving all relevant information and shall support the determination with public written findings. The determination of the Director may be appealed to the Appeals Board.

(d) Any owner of an assisted housing development who is required to give notice of intent to prepay and/or terminate, or to give the notice of expiration required by Section 60.9, shall not sell or otherwise transfer an assisted housing development, or any portion thereof, without giving, at least 14 months prior to the date of such sale or transfer, notice of intention to sell or transfer the development or any portion thereof ("notice of intent to sell"), to the Director of Housing and to any Qualified Entity which requests in writing such notice from the owner. The notice of intent to sell shall be signed by the owner under penalty of perjury and given by deposit in the United States Mail, first class, certified, return receipt requested and posted in a conspicuous place in the common area of the development.

(e) The notice of intent to sell shall contain all of the following:

(1) The intended date of sale or transfer;

(2) The terms of assumable or seller take-back financing, if any, including, but not limited to, the name and address of the lender, the principal amount of the loan, the interest rate, repayment provisions, the date the loan is due, and the priority of the lien of any instrument securing the loan; the terms of an applicable subsidy contract, if any; and proposed improvements to the property to be made by the owner in connection with the sale or transfer, if any;

(3) A statement that the development or portion thereof is available for purchase by or transfer to a qualified entity;

(4) A statement that the owner will make available to any qualified entity, within 15 days of receiving a written request therefor, itemized lists of monthly operating expenses, capital improvements as determined by the owner made

within each of the two preceding calendar years, the amount of project reserves, and copies of the two most recent financial and physical inspection reports on the development, if any, filed with federal, state, or local agencies; and

(5) A copy of the notice of intent to prepay and/or terminate and a statement, signed by the owner under penalty of perjury, of the date the notice of intent to prepay and/or terminate was given.

(f) If, prior to the time by which the owner must give the notice of intent to sell, the owner already has received from a qualified entity an offer to purchase, as defined in Section 60.8(g) below, and the owner has accepted such offer, the owner shall not be required to give the notice of intent to sell; provided, however, that the owner shall be required to submit to the Director of Housing, and to post in a conspicuous place in the assisted housing development, a certification made under penalty of perjury that the owner has received and accepted an offer to purchase from a qualified entity. Such certification shall contain a statement of the terms of the sale or transfer.

(g) Any qualified entity which desires to acquire the development shall send to the Director of Housing and to the owner by United States mail, first class, certified, return receipt requested, an offer to purchase. To be effective for the purpose of Section 60.8(i) below, such offer to purchase shall be received by the owner no later than eight months prior to the conversion date. The offer to purchase shall contain the following information:

(1) The name, address and form of organization of the qualified entity;

(2) The names and titles of the officers, directors, and similar persons in control of and principal investors in the qualified entity;

(3) A statement, signed by an authorized officer under penalty of perjury, that the offeror is a qualified entity within the meaning of this Chapter; and

(4) The terms of the offer to purchase, including the purchase price, the proposed methods and terms of financing, the proposed date for close of escrow, and any other terms of purchase, including the financing and mechanisms by which the qualified entity will maintain the physical integrity and the affordability of the development.

(h) Any owner who is required to give notice of intent to prepay and/or terminate, prior to the date eight months prior to the proposed conversion date, shall not sell or transfer, or enter into an agreement to sell or transfer, an assisted housing development or any portion thereof to any entity other than a qualified entity. If an owner receives an offer to purchase from a qualified entity, the owner shall accept the offer if the purchase price offered is equal to or exceeds the fair return price defined in Section 60.8(i) below and the remaining terms of the offer to purchase are commercially reasonable. If more than one qualified entity submits such an offer to purchase, the owner may accept any such offer; provided, however, that the owner shall be required to accept an offer to purchase by a local qualified entity over a competing offer made by a nonlocal qualified entity. For the purpose of this Chapter, a qualified entity is "local" if it is a tenant's association of the development or if its principal office is located within the City and County of San Francisco.

(i) For the purpose of this Chapter, the "fair return price" shall be the greater of the following two alternative formulas specified in this Section 60.8(i); provided, however, that the fair return price shall in no event exceed the value of the

development appraised by standard appraisal methods for the highest and best use, taking into account applicable legal restrictions governing the use of the development. The fair return price shall equal the greater of (1) or (2) below:

(1) The sum of the following amounts:

(i) The owner's actual cash investment in the development, adjusted for inflation by multiplying the historic dollar amount of the actual cash investment by the Consumer Price Index as published by the United States Department of Labor for All Urban Consumers in the Statistical Area, for each year between the date of the investment and the date on which the offer contained in the offer to purchase is proposed to close ("adjusted actual cash investment"). Actual cash investment shall equal the sum of the cash required for closing the owner's purchase and any cash subsequently invested by the owner in improvements to the development. Actual cash investment shall not include any amount expended for capital improvements if such expenditure was paid with funds from a contingency reserve or sinking fund account of the development. For the purpose of this Chapter, a "sinking fund" is any interest-bearing account into which the interest earned is required to be deposited, and from which withdrawal of funds is prohibited until the fund maturity date; plus

(ii) A return on the value of the owner's adjusted actual cash investment calculated as follows: the sum of a 10 percent annual return on actual total cash investment for the 20-year period following the proposed prepayment date increased each year by an annual four-percent inflation rate, which sum shall be discounted to present value by a discount rate of 10 percent; plus

(iii) The total original principal amount of debt, the proceeds of which were used to finance the cost of constructing the development or for subsequent improvements to the development, and which debt is secured by the development at the time of sale, but not including any debt already incurred for prior purchase of existing improvements or for prior seller take-back financing or for refinancing of existing debt; plus

(iv) The federal and state capital gains tax liability of the owner actually paid as a result of the sale of the development pursuant to this Chapter, provided that the owner and the qualified entity shall use good-faith efforts and cooperate with each other to minimize the amount of federal and state capital gains taxes to the extent legally permitted.

(2) The sum of the following amounts:

(i) The owner's adjusted actual cash investment in the development; plus

(ii) A return on the owner's adjusted actual cash investment in the development calculated as follows: an amount equal to 10 percent of adjusted actual cash investment for each year that the owner owned the development, reduced by the amount of the annual dividend permitted by any applicable regulatory agreement or other covenant or condition of public subsidy and received by the owner, and reduced by any loan proceeds received subsequent to the owner's purchase, which loan proceeds do not meet the criteria set forth in Section 60.8(i)(1)(i) above. The number calculated pursuant to this Section 60.8(i)(2)(ii) shall not be less than zero; plus

(iii) The total amount of debt secured by the development, or which the owner is obligated to repay from the cash flow generated from operation of the development, or which is secured against a limited partnership interest or shares of

stock in any owner for which the development is the sole significant asset, regardless of the use of the proceeds of such debt; provided, however, that such debt shall not include any debt incurred between the effective date of any applicable amendments to the Internal Revenue Code contained in the Economic Recovery Tax Act of 1981 (P.L. 97-34) and the effective date of any applicable amendments to the Internal Revenue Code contained in the Tax Reform Act of 1986 (P.L. 99-514) if either the debt is not required to be repaid directly from cash flow generated by operation of the development, or the failure to repay the debt will not give rise to the right to foreclose on the real property comprising the development; plus

(iv) The federal and state capital gains tax liability of the owner actually paid as a result of the sale of the development pursuant to this Chapter, provided that the owner and the qualified entity shall use good-faith efforts and cooperate with each other to minimize such taxes to the extent legally permitted.

(j) If the owner accepts an offer to purchase from a qualified entity pursuant to Section 60.8(h) above, an agreement for purchase and sale of the development shall be negotiated in good faith between the owner and the qualified entity, and conditioned upon the reasonable amount of time needed to obtain the necessary government approvals and any necessary financing, and shall include the following:

(1) An agreement by the owner to provide the qualified entity with all existing loan documents and any other relevant documents relating to operation of the development not already provided to the purchasing qualified entity, including but not limited to, regulatory agreements containing any use restrictions, loan agreements, promissory notes, and deeds of trust, within 15 days from the date of the signing of the purchase agreement by all the parties;

(2) An agreement by the qualified entity to make an earnest money deposit or deposits, in a total amount not to exceed one percent of the purchase price, within five days of executing the agreement for purchase and sale, which, together with accrued interest shall be credited against the purchase price at the close of escrow. The deposit shall be refundable only if the qualified entity, after a diligent, good-faith effort, fails to remove all inspection and financing contingencies within a reasonable time; and

(3) A statement that the terms and conditions in the purchase agreement, including, but not limited to, the timetables specified in this subsection, may be extended or otherwise amended only by the mutual consent of the owner and the qualified entity.

(k) The owner shall no longer be subject to the requirements of this Section 60.8 upon submission of a written certification to the Director of Housing, signed by the owner under penalty of perjury, that any of the following has occurred:

(1) The owner met all notice and information requirements pursuant to this Chapter and no offer to purchase was received from a qualified entity within the applicable time period that the owner was required by Section 60.8(h) above to accept; or

(2) Despite good-faith negotiations between the owner and the qualified entity, the parties were unable to agree on the material provisions of the purchase agreement, and no other qualified entity made a timely offer to purchase that the owner was required by this Chapter to accept; or

(3) A qualified entity that executed a purchase agreement (i) terminated the agreement or was unable to meet the terms of the agreement, (ii) that the owner exercised due diligence in carrying out the conditions of the purchase agreement, and (iii) that no other qualified entity made an offer to purchase that the owner was required by this Chapter to accept.

(l) An owner, at any time prior to the conversion date, may decide not to prepay, terminate, sell or otherwise transfer the development and may withdraw the notice of intention to sell, subject to the terms of any accepted offer to purchase or executed purchase and sale agreement, and to the offeror's existing statutory and common law remedies. In such event, the owner shall give written notice of such decision by United States Mail, first class, certified, return receipt requested, to the Director of Housing, to all tenant households in the assisted housing development, and to any offeror qualified entity. However, at any time that the owner again decides to sell, or otherwise transfer the development or any portion thereof, the 14-month notice period and the other requirements of this Section 60.8 shall apply to such sale or transfer.

(m) Prior to the close of escrow, an owner selling or transferring a development, or any portion thereof, to any purchaser, shall certify under penalty of perjury that the owner has complied with all provisions of this Chapter. A copy of the certification shall be sent to the Director of Housing by United States Mail, first class, certified, return receipt requested, 10 days prior to close of escrow. The certification shall be recorded and shall contain a legal description of the property on which the development is located and, to the extent consistent with the practices of the Office of the Recorder, shall be indexed to the name of the owner as grantor.

(n) As a condition precedent to the acquisition of any development by a qualified entity pursuant to this Chapter, the qualified entity shall enter into a regulatory agreement, deed restriction or similar agreement, in form and substance satisfactory to the Director of Housing, which agreement shall be recorded in the official records of San Francisco County to ensure that the covenants of the qualified entity made to comply with this Chapter shall run with the land and be binding on the qualified entity and its successors and assigns. The qualified entity shall submit to the owner and the Director of Housing, concurrently with the delivery of an offer to purchase under Section 60.8(g), its proposed form of regulatory agreement or other enforcement mechanism for review by the Director of Housing. (Added by Ord. 332-90, App. 10/3/90)

SEC. 60.9. EXPIRATION OF RENT SUBSIDY CONTRACTS; DISCLOSURE. (a) At least 12 months prior to the expiration of the full term of any rent subsidy contract described in Section 60.4 above, the owner shall give notice by United States Mail, first class, certified, return receipt requested, of such impending termination to the Director of Housing, Director of City Planning, and to all tenant households in the development. Such notice shall contain the information required by Section 60.5(b)(1) and (2), and the following information:

(1) The date of expiration of any such rent subsidy contract and a brief description of the owner's plans for the development subsequent to expiration;

(2) The number of subsidized rental units in the development prior to expiration of any such rent subsidy contract, and the number of subsidized rental

units occupied by tenant households with persons age 62 or older, with disabled persons, and with persons under age 18;

(3) The current rent schedule for the development;

(4) A brief description of any contracts concerning expiration the owner has made with any governmental agency, tenant household residing in the development, or other interested person;

(5) The anticipated rent schedule after expiration of such rent subsidy contract; and

(6) A statement by the owner signed under penalty of perjury certifying the accuracy of the notice as of the date the notice was given.

(b) No later than 90 days after the receipt of the notice specified in Section 60.9(a) above, the Director of Planning shall request that the Planning Commission hold a hearing on the impending expiration to determine: (i) what action the City can take to prevent the loss of the rent subsidy for the affected units; and (ii) whether the owner has initiated or is likely to initiate a diligent, good-faith effort to obtain a renewal or extension of the expiring contract. The Director of Planning shall give notice of such hearing to the owner, the affected tenant households, the San Francisco Housing Authority ("SFHA"), the regional office of HUD, and any other person or entity who submits a written request for such notice to the Director of Housing or Director of Planning.

(c) If an assisted housing development contains subsidized rental units subsidized under more than one project-based rent subsidy contract, and all such rent subsidy contracts for the assisted housing development do not expire on the same date, as part of any offer to a tenant household already residing in the development to permit such tenant household to move into a different unit in the development, the owner shall disclose to such tenant household in writing the expiration dates for the rent subsidy contracts applicable to both units. The owner shall also send to the Director of Housing and to the Executive Director of SFHA, by United States mail, return receipt requested, a copy of such offer and such disclosure. (Added by Ord. 332-90, App. 10/3/90)

SEC. 60.10. ADMINISTRATIVE RELIEF. (a) An owner or qualified entity may petition directly the Housing Preservation Appeals Board ("Appeals Board"), in the same manner as the procedure for appeals specified in Section 60.12(d) through (h) below, for relief from strict compliance with the provisions of this Chapter. Such relief shall be granted only as specified in this Section 60.10, and only upon a finding by the Appeals Board, after a hearing, that the owner or qualified entity has shown by a preponderance of the evidence that relief is warranted.

(b) An owner may be relieved of the obligation to comply with the 18-month notice requirement if imposed by Section 60.5 on the following grounds:

(1) Due to the date this Chapter was enacted, compliance with an applicable provision of federal or state law renders the owner unable to comply both with such federal or state law, and with the 18-month notice requirement; or

(2) Compliance with the 18-month notice requirement would subject the owner's interest in the development to substantial danger of extinguishment by foreclosure or sale in lieu of foreclosure.

Any order of relief entered pursuant to this Section 60.10(b) shall reduce the 18-month notice period only to the extent necessary to avoid the situations described in Section 60.10(b)(1) and (2) above.

(c) An owner may be relieved of the obligation to comply with the requirement to pay relocation benefits, imposed by Section 60.7, on the following grounds:

(1) Payment of the full amount of such benefits will render the owner insolvent. For the purpose of this Section 60.10(c), "insolvent" shall mean that the value of the liabilities of the owner exceeds the value of the owner's assets.

Any order of relief entered pursuant to this Section 60.10(c) shall reduce the amount of relocation benefits due only to the extent necessary to avoid rendering the owner insolvent.

(d) An owner may petition on the Appeals Board for an adjustment in the method of calculating the fair return price. Such relief shall be granted only to the extent necessary to avoid a result which is confiscatory. For the purpose of this chapter, "confiscatory" shall mean that the owner does not receive a fair return on actual cash investment or adjusted actual cash investment as a result of sale to a qualified entity pursuant to Section 60.8 above. Any order of relief pursuant to this Section 60.10(d) shall increase the fair return price only to the extent necessary to avoid a confiscatory result.

(e) An owner may petition the Appeals Board for reduction of the 14-month notice requirement specified by Section 60.8(e). Such reduction may be granted on the following grounds:

(1) Due to the date this Chapter was enacted, compliance with applicable provision of federal or state law renders the owner unable to comply both with such federal or state law, and with the 14-month notice requirement; or

(2) Compliance with the 14-month notice requirement would subject the owner's interest in the development to substantial danger of extinguishment by foreclosure or sale in lieu of foreclosure.

Any order of relief pursuant to this Section 60.10(e) shall reduce the 14-month notice period only to the extent necessary to avoid the situations described in Section 60.10(e)(1) and (2) above.

(f) A qualified entity may petition the Appeals Board for relief from the requirements of Section 60.8(b)(2) if maintaining the rents at the levels specified in Section 60.8(b)(2) renders an assisted housing development not financially feasible because the development's operating revenue will not equal or exceed the sum of operating expenses. A qualified entity purchaser shall be entitled to remove one or more units from the rent and occupancy requirements as the Appeals Board finds is necessary for the development to become economically feasible; provided, however, that once the development is again economically feasible, the purchasing qualified entity shall cause the next available units to be units subject to the rent and occupancy requirements until achieving the number and mix of restricted units in the development required by Section 60.8(b)(2).

For the purpose of this Section 60.10(f), "operating revenues" shall include rents, subsidy payments received on behalf of tenant households, interest on contingency reserve or other reserve funds not designated to be a sinking fund, and receipts from operation of laundry, parking or other services. "Operating expenses" shall include all costs and expenses related to operation of the development, including debt service on any loans required to be paid currently, but not including

any debt incurred for purchase of the development pursuant to this Chapter unless the proceeds of such debt were necessary to pay the fair return price, or were used to pay the cost of capital improvements or rehabilitation necessary to bring the development into compliance with applicable building, electrical, fire, plumbing, and similar code standards.

(g) Any owner may petition the Appeals Board for a reduction in the 12-month notice requirement specified by Section 60.9(a). Such reduction shall be granted on the following grounds:

(1) Due to the date this Chapter was enacted, compliance with applicable portions of federal or state law renders the owner unable to comply both with such federal or state law, and with the 12-month notice requirement; or

(2) Compliance with the 12-month notice requirement would subject the owner's interest in the development to substantial danger of extinguishment by foreclosure or sale in lieu of foreclosure.

Any order of relief pursuant to this Section 60.10(g) shall reduce the 12-month notice period only to the extent necessary to avoid the situations described in Section 60.10(g)(1) and (2) above. (Added by Ord. 332-90, App. 10/3/90)

SEC. 60.11. CIVIL ACTIONS. (a) Whenever an owner (i) fails to give the notice of intent to prepay and/or terminate as provided in this Chapter; (ii) fails to comply with the provisions of this Chapter concerning purchase by a qualified entity; (iii) attempts to convert or converts subsidized rental units in violation of this Chapter; or (iv) otherwise fails to comply with the provisions of this Chapter, the City, any tenant household of the affected development, any affected qualified entity, or the tenant association of the development may institute a civil proceeding for injunctive relief to restrain the owner from such violation and/or money damages, or for any other remedy available at law or in equity.

(b) Upon proof that the owner has willfully or in bad faith violated any provision of this Chapter, any affected tenant household shall receive a judgment of treble the tenant household's actual damages.

(c) In any action in which the City is a party, which action is brought to enforce the provisions of this chapter, upon proof that the owner willfully or in bad faith converted a subsidized rental unit, such owner shall be required to pay to the City a sum at least equal to the cost of constructing or acquiring a replacement unit for each subsidized rental unit unlawfully converted, including, for construction, the per-unit cost of land acquisition. Any money received under this Section 60.11(c) shall be used for the development or preservation of housing units affordable to and to be occupied by very low and low income households.

(d) The prevailing party in any civil action brought under this Section 60.11 shall be entitled to recover reasonable attorney's fees and costs. Reasonable fees of attorneys of the City's Office of City Attorney shall be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience in the subject matter areas of the law for which the City Attorney's services were rendered and who practice in the City in law firms with approximately the same number of attorneys as employed by the Office of City Attorney. (Added by Ord. 332-90, App. 10/3/90)

SEC. 60.12. CIVIL PENALTIES. (a) Any owner who negligently or intentionally violates any provision of this Chapter shall be liable for a civil penalty not to exceed \$5,000 for each separate violation. Such violations shall include, but are not limited to, the making of a false statement or representation in any notice or other document required by this Chapter.

(b) Any interested person may petition the Director of Housing to investigate an alleged violation of this Chapter. Upon receipt of such petition, or upon his or her own motion, the Director of Housing shall give the owner 21 days' written notice by United States Mail, first class, certified, return receipt requested, of the date, time and location of a hearing before the Director of Housing, and the nature of the alleged violation. The Director of Housing shall hear the evidence and shall determine whether any violation was negligent or intentional. The Director of Housing shall issue a written decision with findings in support of the decision that state the nature of any violations and any appropriate penalties.

(c) The owner or any other party to the hearing may appeal the decision of the Director of Housing to the Housing Preservation Appeals Board ("Appeals Board") by filing with the Appeals Board a written notice of appeal within 30 days of the date of the decision by the Director of Housing. The notice of appeal shall state the grounds for objection to the decision of the Director of Housing.

(d) The Appeals Board shall hold a public hearing on the appeal within 45 days of the filing of the notice of appeal and shall decide whether to reverse or affirm the decision of the Director of Housing within 15 days of the hearing. The Appeals Board shall give the owner and any person requesting notice at least 14 days' notice of the date, time and location of the hearing.

(e) The Appeals Board shall adopt written findings in support of its decision.

(f) The decision of the Appeals Board shall be a final order reviewable by any court of competent jurisdiction.

(g) The Appeals Board shall adopt rules governing conduct of its hearings. Such rules shall provide that parties shall have the right to be present, to be represented by counsel, to present evidence and to cross-examine witnesses.

(h) The Appeals Board shall have three members appointed by the Mayor.

(i) Any penalties collected pursuant to this Section 60.12 shall be used as provided in Section 60.11(c) above. (Added by Ord. 332-90, App. 10/3/90)

SEC. 60.13. RULES AND REGULATIONS. The Mayor is authorized to promulgate any rules or regulations necessary or appropriate to carry out the purposes and requirements of this ordinance. (Added by Ord. 332-90, App. 10/3/90)

SEC. 60.14. SEVERABILITY. If any provision or clause of this Chapter, or the application thereof to any person or circumstance, is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other chapter provisions. Clauses of this Chapter are declared to be severable. (Added by Ord. 332-90, App. 10/3/90)

CHAPTER 61**WATERFRONT LAND USE**

Sec. 61.1.	Findings and Declaration of Policy.
Sec. 61.2.	Land Use Planning Process.
Sec. 61.3.	Maritime Land Uses.
Sec. 61.4.	Acceptable Non-Maritime Land Uses.
Sec. 61.5.	Unacceptable Non-Maritime Land Uses.
Sec. 61.6.	Definitions.
Sec. 61.7.	Implementation.
Sec. 61.8.	Severability.
Sec. 61.9.	Amendment and Repeal.
Sec. 61.10.	Chaptering of this Ordinance.

SEC. 61.1. FINDINGS AND DECLARATION OF POLICY. The people of the City and County of San Francisco find and declare:

(a) Whereas, the waterfront of San Francisco is an irreplaceable public resource of the highest value;

(b) Whereas, the most beneficial and appropriate use of the waterfront is for purposes related to and dependent on their proximity to San Francisco Bay and the Pacific Ocean, such as maritime uses, public access to, and restoration of, San Francisco Bay;

(c) Whereas, San Francisco holds the waterfront in trust for the People of California;

(d) Whereas, maritime uses, public access to, and restoration of San Francisco Bay serve San Francisco residents, and provide significant economic, social and environmental benefits to San Francisco and its residents, including a diversity of employment opportunities and better access to a healthier San Francisco Bay;

(e) Whereas, the waterfront contains structures of historical and architectural importance;

(f) Whereas, it is poor planning to approve waterfront land uses on an ad hoc basis, rather than as part of a comprehensive waterfront land use plan;

(g) Whereas, it is in the interest of San Francisco to develop a strong and economically vital waterfront with adequate public access to and restoration of San Francisco Bay; and

(h) Whereas, changing conditions in the maritime industry such as deeper draft vessels and increased awareness of the negative environmental impacts of dredging and dredge-spoil dumping indicate that cargo handling at the Port of San Francisco could increase dramatically;

Therefore the people of San Francisco declare that it is the policy of the City and County of San Francisco that:

(a) The waterfront be reserved for maritime uses, public access, and projects which aid in the preservation and restoration of the environment;

(b) Where such land uses are infeasible or impossible, only acceptable non-maritime land uses as set forth in this ordinance shall be allowed;

(c) A waterfront land use plan shall be prepared (as set forth in Section 61.2 of this ordinance) to further define acceptable and unacceptable non-maritime land

uses and to assign land uses for specific waterfront parcels. (Added by Proposition H, 11/6/90)

SEC. 61.2. LAND USE PLANNING PROCESS. (a) Upon adoption of this initiative, the Board of Supervisors shall within 30 days request the Port Commission to prepare a "Waterfront Use Land Plan" which is consistent with the terms of this initiative for waterfront lands as defined by this ordinance. Should the Port Commission not agree to this request within 30 days of the Board of Supervisors request, the Board of Supervisors shall have 30 days to designate a different City agency or department to prepare the "Waterfront Land Use Plan."

(b) The agency drafting the "Waterfront Land Use Plan" shall consult the City Planning Commission to ensure development of a plan consistent with the City's Master Plan. The final plan and any subsequent amendments thereto shall be subject to a public hearing conducted by the City Planning Commission to ensure consistency between the plan and the City's Master Plan.

(c) The "Waterfront Land Use Plan" shall define land uses in terms of the following categories:

- (1) Maritime land uses;
- (2) Acceptable non-maritime land uses; and
- (3) Unacceptable non-maritime land uses.

Land uses included in these categories which are not part of the initial ordinance shall be added to Sections 61.3 through 61.5 of this ordinance as appropriate. No deletions from Sections 61.3 through 61.5 shall be allowed unless approved by the voters of San Francisco:

(d) No City agency or officer may take, or permit to be taken, any action to permit the new development of any non-maritime land use (except those land uses set forth in Section 61.4 below) on the waterfront until the "Waterfront Land Use Plan" has been completed. Non-maritime land uses existing, or which have all their necessary permits, as of January 1, 1990, shall be exempt from this limitation. Non-maritime land uses included in the following projects shall be exempt from this limitation provided that the projects shall be subject to all other applicable laws and regulations and that hotels are not permitted:

(1) A project to restore two buildings on the San Francisco waterfront that are listed on the federal National Registrar of Historic Places as of January 1, 1994, specifically the Ferry Building and the Agricultural Building, while continuing the role of the Ferry Building area as a transportation center, and to improve the adjacent pier areas including existing structures, up to but not including any portion of Pier 1 on the north and extending to include the pier area adjoining and south of the Agricultural Building, and

(2) A project to improve the public boat launch and dock facility near Pier 52 if the non-maritime land use is limited to a retail and food service use of approximately 3,000 square feet to serve the recreational boating and water use community.

(3) This provision shall not be applicable to any new development within the Northeast China Basin Special Use District.

(4) This provision shall not be applicable to any new development within the Candlestick Point Special Use District.

(e) The "Waterfront Land Use Plan" shall be reviewed by the agency which prepared it or by such other agency designated by the Board of Supervisors at a

minimum of every five years, with a view toward making any necessary amendments consistent with this initiative.

(f) The "Waterfront Land Use Plan" shall be prepared with the maximum feasible public input. (Added by Proposition H, 11/6/90; amended by Proposition F, 11/8/94; Proposition B, 3/26/96; Proposition F, 6/3/97)

SEC. 61.3. MARITIME LAND USES. Maritime land uses include but are not limited to:

- (a) Maritime cargo handling and storage facilities;
- (b) Ship repair facilities;
- (c) Fish processing facilities;
- (d) Marinas and boat launch ramps;
- (e) Ferryboat terminals;
- (f) Cruise ship terminals;
- (g) Excursion and charter boat facilities and terminals;
- (h) Ship berthing facilities;
- (i) Maritime construction and maritime supply facilities;
- (j) Marine equipment and supply facilities;
- (k) A list of additional maritime land uses developed as part of the Waterfront

Land Use Planning process shall be included in the "Waterfront Land Use Plan" and added to this Section. Uses added to this list through the Waterfront Plan process include:

- (1) Cargo shipping;
- (2) Ship repair;
- (3) Fishing industry;
- (4) Recreational boating and water use;
- (5) Ferry and excursion boats and water taxis;
- (6) Passenger cruise ships;
- (7) Historic ships;
- (8) Maritime support services;
- (9) Maritime offices; and
- (10) Port-priority uses. (Added by Proposition H, 11/6/90; amended by Ord. 7-98, App. 1/16/98)

SEC. 61.4. ACCEPTABLE NON-MARITIME LAND USES. Acceptable non-maritime land uses include but are not limited to:

- (a) Parks;
- (b) Esplanades;
- (c) Wildlife habitat;
- (d) Recreational fishing piers;
- (e) Restoration of the ecology of San Francisco Bay and its shoreline;
- (f) Transit and traffic facilities; and
- (g) A list of additional acceptable non-maritime land uses developed as part

of the Waterfront Land Use Planning process shall be included in the "Waterfront Land Use Plan" and added to this Section. Uses added to this list through the Waterfront Plan process include:

- (1) Public access;
- (2) Open space;

uses and to assign land uses for specific waterfront parcels. (Added by Proposition H, 11/6/90)

SEC. 61.2. LAND USE PLANNING PROCESS. (a) Upon adoption of this initiative, the Board of Supervisors shall within 30 days request the Port Commission to prepare a "Waterfront Use Land Plan" which is consistent with the terms of this initiative for waterfront lands as defined by this ordinance. Should the Port Commission not agree to this request within 30 days of the Board of Supervisors request, the Board of Supervisors shall have 30 days to designate a different City agency or department to prepare the "Waterfront Land Use Plan."

(b) The agency drafting the "Waterfront Land Use Plan" shall consult the City Planning Commission to ensure development of a plan consistent with the City's Master Plan. The final plan and any subsequent amendments thereto shall be subject to a public hearing conducted by the City Planning Commission to ensure consistency between the plan and the City's Master Plan.

(c) The "Waterfront Land Use Plan" shall define land uses in terms of the following categories:

- (1) Maritime land uses;
- (2) Acceptable non-maritime land uses; and
- (3) Unacceptable non-maritime land uses.

Land uses included in these categories which are not part of the initial ordinance shall be added to Sections 61.3 through 61.5 of this ordinance as appropriate. No deletions from Sections 61.3 through 61.5 shall be allowed unless approved by the voters of San Francisco;

(d) No City agency or officer may take, or permit to be taken, any action to permit the new development of any non-maritime land use (except those land uses set forth in Section 61.4 below) on the waterfront until the "Waterfront Land Use Plan" has been completed. Non-maritime land uses existing, or which have all their necessary permits, as of January 1, 1990, shall be exempt from this limitation. Non-maritime land uses included in the following projects shall be exempt from this limitation provided that the projects shall be subject to all other applicable laws and regulations and that hotels are not permitted:

(1) A project to restore two buildings on the San Francisco waterfront that are listed on the federal National Registrar of Historic Places as of January 1, 1994, specifically the Ferry Building and the Agricultural Building, while continuing the role of the Ferry Building area as a transportation center, and to improve the adjacent pier areas including existing structures, up to but not including any portion of Pier 1 on the north and extending to include the pier area adjoining and south of the Agricultural Building, and

(2) A project to improve the public boat launch and dock facility near Pier 52 if the non-maritime land use is limited to a retail and food service use of approximately 3,000 square feet to serve the recreational boating and water use community.

(3) This provision shall not be applicable to any new development within the Northeast China Basin Special Use District.

(4) This provision shall not be applicable to any new development within the Candlestick Point Special Use District.

(e) The "Waterfront Land Use Plan" shall be reviewed by the agency which prepared it or by such other agency designated by the Board of Supervisors at a

minimum of every five years, with a view toward making any necessary amendments consistent with this initiative.

(f) The "Waterfront Land Use Plan" shall be prepared with the maximum feasible public input. (Added by Proposition H, 11/6/90; amended by Proposition P, 11/8/94; Proposition B, 3/26/96; Proposition F, 6/3/97)

SEC. 61.3. MARITIME LAND USES. Maritime land uses include but are not limited to:

- (a) Maritime cargo handling and storage facilities;
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- (c) Fish processing facilities;
- (d) Marinas and boat launch ramps;
- (e) Ferryboat terminals;
- (f) Cruise ship terminals;
- (g) Excursion and charter boat facilities and terminals;
- (h) Ship berthing facilities;
- (i) Maritime construction and maritime supply facilities;
- (j) Marine equipment and supply facilities;
- (k) A list of additional maritime land uses developed as part of the Waterfront

Land Use Planning process shall be included in the "Waterfront Land Use Plan" and added to this Section. Uses added to this list through the Waterfront Plan process include:

- (1) Cargo shipping;
- (2) Ship repair;
- (3) Fishing industry;
- (4) Recreational boating and water use;
- (5) Ferry and excursion boats and water taxis;
- (6) Passenger cruise ships;
- (7) Historic ships;
- (8) Maritime support services;
- (9) Maritime offices; and
- (10) Port-priority uses. (Added by Proposition H, 11/6/90; amended by Ord. 7-

98, App. 1/16/98)

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- (a) Parks;
- (b) Esplanades;
- (c) Wildlife habitat;
- (d) Recreational fishing piers;
- (e) Restoration of the ecology of San Francisco Bay and its shoreline;
- (f) Transit and traffic facilities; and
- (g) A list of additional acceptable non-maritime land uses developed as part

of the Waterfront Land Use Planning process shall be included in the "Waterfront Land Use Plan" and added to this Section. Uses added to this list through the Waterfront Plan process include:

- (1) Public access;
- (2) Open space;

(3) Commercial uses, i.e., artist/designer studios and galleries, assembly and entertainment general office, museums, parking, retail, recreational enterprises, visitor services, warehousing/storage, wholesale trade/promotion;

(4) Other uses, i.e., academic institutions, community facilities, general industry, power plants, sports facilities, transportation services;

(5) Interim uses consistent with the provisions of the Burton Act and Public Trust. (Added by Proposition H, 11/6/90; amended by Proposition B, 3/26/96; Proposition F, 6/3/97; Ord. 7-98, App. 1/16/98)

SEC. 61.5. UNACCEPTABLE NON-MARITIME LAND USES. (a) **Criteria for Consideration in Determining Unacceptable Non-Maritime Land Uses.** Criteria to be considered in making findings regarding the acceptability of any specific land use on the waterfront shall include but are not limited to:

(1) Does the land use need to be located on the waterfront in order to serve its basic function?

(2) Is the land use compatible with existing or planned maritime operations on surrounding parcels if any?

(3) Does the land use provide the maximum feasible public access?

(4) Does the land use improve the ecological balance of San Francisco Bay?

(5) Does the land use protect the waterfront's architectural heritage?

(6) Does the land use represent the best interests of the people of the City and County of San Francisco and/or the State of California?

(b) **Prohibition of Unacceptable Non-Maritime Land Uses.** No City agency or officer may take, or permit to be taken, any action to permit the development of any unacceptable non-maritime land use (as set forth below) on the waterfront.

(c) **Listing of Unacceptable Non-Maritime Land Uses.** The following land uses are found to be unacceptable non-maritime land uses:

(1) Hotels.

The City finds that hotels do not need to be located on the waterfront, and permitting their development on the waterfront will displace or preclude maritime uses;

The City finds that waterfront hotels do not provide the economic benefits provided by maritime employment;

The City finds that waterfront hotels do not provide high quality public access to, or permit restoration of, San Francisco Bay;

The City finds that waterfront hotels do not serve the needs of San Francisco or its residents;

The City therefore finds that hotels are an unacceptable non-maritime land use and shall not be permitted on the waterfront.

(2) A list of additional unacceptable non-maritime land uses developed as part of the Waterfront Land Use Planning process shall be included in the "Waterfront Land Use Plan" and added to this Section. Uses added to this list through the Waterfront Plan process include:

(i) Non-maritime private clubs;

(ii) Residential;

(iii) Nonaccessory parking (excludes interim parking);

(iv) Adult entertainment;

(v) Non-marine animal services;

- (vi) Mortuaries;
- (vii) Heliports (except for landings for emergency or medical services);
- (viii) Oil refineries;
- (ix) Mini-storage warehouses;
- (x) Sports facilities with seating capacity greater than 22,000, unless approved

by the voters of San Francisco.

(d) **Grandfathering of Existing Unacceptable Non-Maritime Land Uses.** This initiative shall not prevent any unacceptable non-maritime land uses existing as of January 1, 1990 from continuing in operation or expanding on its existing site in a manner consistent with all other applicable laws and regulations. At such time as a new land use is proposed for the site of a business existing as of January 1, 1990 that new land use must meet the conditions set forth in this ordinance. (Added by Proposition H, 11/6/90; amended by Ord. 7-98, App. 1/16/98)

SEC. 61.6. DEFINITIONS. (a) "City agency or officer" means the Board of Supervisors, and all other city commissions, boards, officers, employees, departments or entities whose exercise of powers can be affected by initiative.

(b) "Action" includes, but is not limited to:

- (1) Amendments to the Planning Code and Master Plan;
- (2) Issuance of permits or entitlements for use by any City agency or officer;
- (3) Approval, modification or reversal of decisions or actions by subordinate

City agencies or officers;

(4) Approval of sales or leases pursuant to Sections 7.402 and 7.402-1 of the Charter of the City and County of San Francisco;

(5) Approval of or amendments to Redevelopment Plans; and

(6) Any other action, including but not limited to projects as defined in Public Resources Code Section 21065.

(c) "Waterfront" means land transferred to the City and County of San Francisco pursuant to Chapter 1333 of the Statutes of 1968, as well as any other property which is owned by or under the control of the Port Commission of San Francisco, and which is also in any of the following areas:

(1) Piers;

(2) The shoreline band as defined in Government Code Section 66610(b), between the Golden Gate National Recreation Area and the intersection of The Embarcadero and Berry Street, except for the area south of Jefferson Street between Hyde Street and Powell Street;

(3) The shoreline band as defined in Government Code Section 66610(b), in the area bounded by San Francisco Bay, Berry, Third, and Evans Streets, Hunter's Point Boulevard, and a straight line from the intersection of Hunter's Point Boulevard and Innis Avenue to the intersection of Carroll Avenue and Fitch Street; and

(4) The area south of Pier 98 in which all new development is subject to the Shoreline Guidelines, as shown on Map 8 (Eastern Shoreline Plan) of the Recreation and Open Space Element of the San Francisco Master Plan, in effect as of January 1, 1990.

(d) "San Francisco Bay" means the area defined in Government Code Section 66610(a) which is the City and County of San Francisco, except for areas west of Third Street.

(e) All references to public roads are to their alignment as of January 1, 1990.

(f) "Hotel" means any use falling within the definition in Section 314.1(g) of the San Francisco Planning Code in effect as of January 1, 1990; any waterside hotel having docks to accommodate persons traveling by boat; or any facilities for providing temporary or transient occupancy. This shall not include boat berths which are provided for temporary moorage of boats.

(g) All other terms identifying maritime, acceptable non-maritime, and unacceptable non-maritime land uses shall be as defined in the Waterfront Land Use Plan. (Added by Proposition H, 11/6/90; amended by Ord. 7-98, App. 1/16/98)

SEC. 61.7. IMPLEMENTATION. Within 180 days of the effective date of this ordinance, the City and County shall:

(a) Amend its Master Plan, Planning Code, and other relevant plans and codes in a manner consistent with this ordinance;

(b) Request and apply for conforming amendments to all applicable state and regional plans and regulations; and

(c) Begin preparation of the "Waterfront Land Use Plan" required under Section 61.2 of this ordinance. (Added by Proposition H, 11/6/90)

SEC. 61.8. SEVERABILITY. If any portion of this ordinance, or the application thereof, is hereafter determined to be invalid by a court of competent jurisdiction, all remaining portions of this ordinance, or application thereof, shall remain in full force and effect. Each section, subsection, sentence, phrase, part, or portion of this ordinance would have been adopted and passed irrespective of the fact that any one or more sections, subsections, sentences, phrases, parts or portions be declared invalid or unconstitutional. (Added by Proposition H, 11/6/90)

SEC. 61.9. AMENDMENT AND REPEAL. No part of this ordinance or the amendments made pursuant to Section 61.7 hereof may be amended or repealed except by a vote of the electors of the City and County of San Francisco, except for those additional listings provided herein in Sections 61.3, 61.4, and 61.5. (Added by Proposition H, 11/6/90)

SEC. 61.10. CHAPTERING OF THIS ORDINANCE. After the adoption of this ordinance the Clerk of the Board of Supervisors shall assign a Chapter number to this ordinance and shall renumber the sections of this ordinance in an appropriate manner. (Added by Proposition H, 11/6/90)

CHAPTER 62**DOMESTIC PARTNERSHIPS**

Sec. 62.1.	Purpose.
Sec. 62.2.	Definitions.
Sec. 62.3.	Establishing a Domestic Partnership.
Sec. 62.4.	Ending Domestic Partnerships.
Sec. 62.5.	County Clerk's Records.
Sec. 62.6.	Legal Effect of Declaration of Domestic Partnership.
Sec. 62.7.	Codification.
Sec. 62.8.	Filing Fees.
Sec. 62.9.	Civil Ceremony.

SEC. 62.1. PURPOSE. The purpose of this ordinance is to create a way to recognize intimate committed relationships, including those of lesbians and gay men who otherwise are denied the right to identify the partners with whom they share their lives. All costs of registration must be covered by fees to be established by ordinance. (Added by Proposition K, 11/6/90)

SEC. 62.2. DEFINITIONS. (a) Domestic Partnership. Domestic Partners are two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring, who live together, and who have agreed to be jointly responsible for basic living expenses incurred during the Domestic Partnership. They must sign a Declaration of Domestic Partnership, and establish the partnership under Section 62.3 of this chapter.

(b) "Live Together." "Live together" means that two people share the same living quarters. It is not necessary that the legal right to possess the quarters be in both of their names. Two people may live together even if one or both have additional living quarters. Domestic Partners do not cease to live together if one leaves the shared quarters but intends to return.

(c) "Basic Living Expenses." "Basic living expenses" means the cost of basic food and shelter. It also includes the expenses which are paid at least in part by a program or benefit for which the partner qualified because of the domestic partnership. The individuals need not contribute equally or jointly to the cost of these expenses as long as they agree that both are responsible for the costs.

(d) "Declaration of Domestic Partnership." A "Declaration of Domestic Partnership" is a form provided by the County Clerk. By signing it, two people agree to be jointly responsible for basic living expenses which they incur during the domestic partnership and that this agreement can be enforced by anyone to whom those expenses are owed. They also state under penalty of perjury that they met the definition of domestic partnership when they signed the statement, that neither is married, that they are not related to each other in a way which would bar marriage in California, and that neither had a different domestic partner less than six months before they signed. This last condition does not apply if the previous domestic partner died. The form will also require each partner to provide a mailing address. (Added by Proposition K, 11/6/90)

SEC. 62.3. ESTABLISHING A DOMESTIC PARTNERSHIP. (a) Methods.

Two persons may establish a Domestic Partnership by either:

(1) Presenting a signed Declaration of Domestic Partnership to the County Clerk, who will file it and give the partners a certificate showing that the Declaration was filed; or

(2) Having a Declaration of Domestic Partnership notarized and giving a copy to the person who witnessed the signing (who may or may not be the notary).

(b) **Time Limitation.** A person cannot become a member of a Domestic Partnership until at least six months after any other Domestic Partnership of which he or she was a member ended. This does not apply if the earlier domestic partnership ended because one of the members died.

(c) **Residence Limitation.** The County Clerk will only file Declaration of Domestic Partnership if:

(1) The partners have a residence in San Francisco; or

(2) At least one of the partners works in San Francisco. (Added by Proposition K, 11/6/90)

SEC. 62.4. ENDING DOMESTIC PARTNERSHIPS. (a) When the Partnership Ends. A Domestic Partnership ends when:

(1) One partner sends the other a written notice that he or she has ended the partnership; or

(2) One of the partners dies; or

(3) One of the partners marries or the partners no longer live together.

(b) Notice the Partnership Has Ended.

(1) **To Domestic Partners.** When a Domestic Partnership ends, at least one of the partners must sign a notice saying that the partnership has ended. The notice must be dated and signed under penalty of perjury. If the Declaration of Domestic Partnership was filed with the County Clerk, the notice must be filed with the clerk; otherwise, the notice must be notarized. The partner who signs the notice must send a copy to the other partner.

(2) **To Third Parties.** When a Domestic Partnership ends, a Domestic Partner who has given a copy of a Declaration of Domestic Partnership to any third party, (or, if that partner has died, the surviving member of the domestic partnership) must give that third party a notice signed under penalty of perjury stating the partnership has ended. The notice must be sent within 60 days of the end of the domestic partnership.

(3) **Failure to Give Notice.** Failure to give either of the notices required by this subsection will neither prevent nor delay termination of the Domestic Partnership. Anyone who suffers any loss as a result of failure to send either of these notices may sue for actual losses. (Added by Proposition K, 11/6/90)

SEC. 62.5. COUNTY CLERK'S RECORDS. (a) Amendments to Declarations. A Partner may amend a Declaration of Domestic Partnership filed with the County Clerk at any time to show a change in his or her mailing address.

(b) **New Declarations of Domestic Partnership.** No person who has filed a declaration of Domestic Partnership with the County Clerk may file another declaration of Domestic Partnership until six months after a notice the partnership has ended has been filed. However, if the Domestic Partnership ended because one of the

partners died, a new Declaration may be filed anytime after the notice the partnership ended is filed.

(c) **Maintenance of County Clerk's Records.** The County Clerk will keep a record of all Declarations of Domestic Partnership, amendments to Declarations of Domestic Partnership and all notices that a partnership has ended. The records will be maintained so that amendments and notices a partnership has ended are filed with the Declaration of Domestic Partnership to which they apply.

(d) **Filing Fees.** The Board of Supervisors will set the filing fee for Declarations of Domestic Partnership and Amendments. No fee will be charged for notices that a partnership has ended. The fees charged must cover the city's cost of administering this ordinance. (Added by Proposition K, 11/6/90)

SEC. 62.6. LEGAL EFFECT OF DECLARATION OF DOMESTIC PARTNERSHIP. (a) **Obligations.** The obligations of domestic partners to each other are those described by the definition.

(b) **Duration of Rights and Duties.** If a domestic partnership ends, the partners incur no further obligations to each other. (Added by Proposition K, 11/6/90)

SEC. 62.7. CODIFICATION. Upon adoption, the Clerk of the Board shall codify this amendment into the San Francisco Administrative Code. (Added by Proposition K, 11/6/90)

SEC. 62.8. FILING FEES. For each filing of a Declaration of Domestic Partnership and each Amendment to a Declaration of Domestic Partnership the County Clerk shall charge a fee of \$35. (Added by Ord. 2-91, App. 1/14/91)

SEC. 62.9. CIVIL CEREMONY. (a) The County Clerk is authorized to perform a civil ceremony solemnizing the formation of a Domestic Partnership established in accordance with this Chapter. Persons who either (1) present a signed Declaration of Domestic Partnership for filing to the County Clerk in accordance with Section 62.3(a)(1), or who (2) present a certificate issued by the County Clerk in accordance with Section 62.3(a)(1) showing that a signed Declaration of Domestic Partnership for these persons has been previously filed with the County Clerk, may request that the County Clerk perform a ceremony solemnizing the formation of their Domestic Partnership. Each request for a Domestic Partnership ceremony shall be made in writing on a form provided by the County Clerk, and shall be accompanied by payment of a fee of \$30.

(b) Upon completion of the ceremony authorized by Subsection (a), the County Clerk shall issue a certificate memorializing the performance of the ceremony. The certificate shall be signed by the officiant. The County Clerk shall keep a record of all such ceremonies performed, filed with the Declaration of Domestic Partnership to which they apply. The County Clerk shall keep a record of applications for Domestic Partnership ceremonies for a period of two years from the date of the application.

(c) The County Clerk is authorized to deputize persons to solemnize Domestic Partnership ceremonies. Any person 18 years of age or older may apply to be deputized for this purpose. Approval of applicants and the terms of any such authorization shall be solely within the discretion of the County Clerk.

(d) The ceremony authorized by this Section shall have no legal effect upon the status of a Domestic Partnership established pursuant to this Chapter.

(e) This Section shall become effective 45 days after it is enacted. (Added by Ord. 66-96, App. 2/9/96)

CHAPTER 63**LIMITATIONS ON WATER USE FOR LANDSCAPING IN NEW DEVELOPMENTS**

- Sec. 63.1. Purpose.
- Sec. 63.2. Submission of Landscape Plan and Soil Analysis Report.
- Sec. 63.3. Applicability and Definitions.
- Sec. 63.4. Planting Design.
- Sec. 63.5. Irrigation.
- Sec. 63.6. Soil Analysis and Conditioning.
- Sec. 63.7. Maintenance Schedule.
- Sec. 63.8. Inspection.
- Sec. 63.9. Permit Approval.
- Sec. 63.10. Severability.
- Sec. 63.11. San Francisco Water Department Fees.

SEC. 63.1. PURPOSE. The purpose of this section is to promote efficient water use in new and renovated landscaping by utilizing proper landscape design and management, efficient irrigation equipment and techniques, low water use plant materials, limiting high water use areas and the use of mulches and soil improvement materials. This ordinance will also satisfy the requirements of AB325 which adds Article 10.8 (commencing with Section 65590) to Chapter 3 of Division 1 of Title 7 of the Government Code concerning Water Conservation. AB325 outlines Landscape Ordinance requirements which must be enacted by all water suppliers by 1993 or those suppliers must adopt a model ordinance to be prepared by a state-wide committee for the Legislature. (Added by Ord. 92-91, App. 3/14/91)

SEC. 63.2. SUBMISSION OF LANDSCAPE PLAN AND SOIL ANALYSIS REPORT. (a) Applicants for any building or site permit shall submit a landscape plan and soil analysis report to the San Francisco Water Department when:

(1) Construction involving any commercial building or residential building with two or more units with landscaping of an area greater than 1,000 square feet on a lot exceeding 3,500 square feet or landscaping of an area greater than 1,000 square feet by a Department of the City and County of San Francisco.

(2) The landscaping plan shall be drawn to scale, shall be drawn on not less than 11-inch by 17-inch paper and reproduced on substantial paper, and shall be of sufficient clarity to indicate the location, nature and extent of the landscaping proposed and show in detail that it will conform to the provisions of this code and all relevant laws, ordinances, rules and regulations. (Added by Ord. 92-91, App. 3/14/91)

SEC. 63.3. APPLICABILITY AND DEFINITIONS. (a) The following provisions are mandatory restrictions on the use of landscaping in new development and renovated landscapes. Whenever referred to in this ordinance, the term "landscaping" will be defined as the planting area remaining after taking the total parcel less the square footage of building pad(s), driveway(s), and parking areas. Likewise, the

term "new development" shall mean as applicable, (1) the construction of any new building or structure or the enlargement of an existing structure which involves the landscaping of an area greater than 1,000 square feet on a lot exceeding 3,500 square feet; (2) the creation by the City and County of San Francisco of landscaping of an area greater than 1,000 square feet. The term "renovated" shall apply to the same square footage requirements as a "new development" and is limited to installation of new irrigation piping and does not include replacing plant material.

(b) Landscaping which is part of a registered historical site is exempt from the provisions of this ordinance. (Added by Ord. 92-91, App. 3/14/91)

SEC. 63.4. PLANTING DESIGN. (a) The total area devoted to turf grass, decorative water use and water-intensive plantings shall be limited to 15 percent of the total parcel area. The turf grass limitation excludes public or publicly accessible parklands or recreation areas, golf course, cemeteries, and children's play areas in private developments.

(b) Narrow strips of turf grass less than eight feet wide are prohibited along traffic medians, between curbs and sidewalks, between living units, and similar installations.

(c) If the planted area is located on a slope exceeding 10 percent, and is also within five feet of a hardscape or paved surface, a groundcover other than turf grass shall be used.

(d) All water intensive plants shall be grouped together and irrigated on a separate cycle from low water use plants and turf grass.

(e) The above limitations shall not apply to commercial farms, community gardens on privately owned land and land used wholly or in large part for raising fruit crops, vegetables, herbs, or other edible plants for sale or personal consumption.

(f) Low water use plants, warm season or tall fescue turf grasses are encouraged under the conditions of this ordinance to reduce the water demand in the new landscaping.

(g) Information on low water use plants, irrigation techniques and educational materials on the efficient use of water will be provided by the San Francisco Water Department. (Added by Ord. 92-91, App. 3/14/91)

SEC. 63.5. IRRIGATION. (a) All irrigated park areas, median traffic strips, landscaped public areas, landscaped areas surrounding multi-residential and commercial developments, and industrial parks shall have separately metered automatic irrigation systems.

(b) Spray or sprinkler systems are prohibited for irrigating trees.

(c) Valves and circuits shall be separated based on water use requirements. Sprinkler heads shall have matched precipitation rates within each control valve circuit for uniform water application.

(d) All irrigation systems shall be equipped with a controller capable of dual or multiple programming. Controllers shall be set to water between 5:00 p.m. and 10:00 a.m.

(e) Irrigation plans shall include schedules reflecting the amount of water needed to maintain plant health and growth based on actual water needs of the plant, including climatic data for the area. Separate schedules should be made for (1)

establishing new plant material with an estimate of length of establishment and (2) maintenance of plant material after established. Schedules are to be made for each month of the watering season and shall include length and frequency of run times. Schedules shall be prominently displayed in or adjacent to the irrigation controller box.

(f) All irrigation systems shall be designed and installed to prevent runoff and overspray onto hard non-irrigated areas. Installation of irrigation equipment must provide precipitation rates designed and recognized in the industry to deliver high efficiency in water application.

(g) In the event nonpotable water supplies through dual distribution systems becomes permitted by state law, said use shall be in accordance with all relevant laws, ordinances, rules and regulations. (Added by Ord. 92-91, App. 3/14/91)

SEC. 63.6. SOIL ANALYSIS AND CONDITIONING. Prior to the installation or planting of plants or turf grass in a new development, the developer shall:

(a) Prepare a soils test of the site to determine the existing characteristics and condition of the soil.

(b) Amend the soil according to the report recommendations to correct any soil deficiencies that might impede the growth of the new plantings.

(c) The applicant shall submit with the plans the results of the soil analysis report to the San Francisco Water Department. In the event, recommendations to correct any soil deficiencies were included in the report, the applicant must submit evidence of correction of the soil deficiencies to the satisfaction of San Francisco Water Department.

(d) Install a minimum of two inches of mulch in non-turf grass areas to the soil surface after planting. (Added by Ord. 92-91, App. 3/14/91)

SEC. 63.7. MAINTENANCE SCHEDULE. At the time of initial sale or occupancy of each unit in the new development the developer shall provide to each owner or occupant of all units on each parcel written instructions consistent with the manufacturer's instructions for the proper operation and ongoing maintenance of the irrigation system and controls located on each individual unit. In the case of a multi-unit new development with a single owner or where common areas are maintained, written instruction shall be provided to the single owner or the owners of the common area. (Added by Ord. 92-91, App. 3/14/91)

SEC. 63.8. INSPECTION. The San Francisco Water Department shall inspect all landscape plans and may in its discretion inspect the site of the new development. The San Francisco Water Department shall be provided with reasonable access to the site to conduct such inspections. (Added by Ord. 92-91, App. 3/14/91)

SEC. 63.9. PERMIT APPROVAL. Prior to approval of an application for a building or site permit the applicant must comply with all provisions required by this chapter.

The applicant shall submit to the Bureau of Building Inspection written certification by the San Francisco Water Department approving the applicant's landscaping plan and soil analysis report.

Failure to obtain such approval from the San Francisco Water Department shall result in a denial of an application for a building or site permit by the Superintendent of the Bureau of Building Inspection. (Added by Ord. 92-91, App. 3/14/91)

SEC. 63.10. SEVERABILITY. If any section, paragraph, sentence, clause or phrase of this chapter or any part thereof, is for any reason to be held unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter, or any part thereof. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective. (Added by Ord. 92-91, App. 3/14/91)

SEC. 63.11. SAN FRANCISCO WATER DEPARTMENT FEES. The San Francisco Water Department acting through its Public Utilities Commission is authorized to impose and collect fees in its discretion to recover the costs of implementing this chapter, including costs of document processing and review, inspection, consultation with applicants and administration of this chapter. (Added by Ord. 92-91, App. 3/14/91)

CHAPTER 64**SAN FRANCISCO BOND FACILITATION ACT**

Sec. 64.01.	Declaration of Policy.
Sec. 64.02.	Name.
Sec. 64.03.	Definitions.
Sec. 64.04.	Interest Payments.
Sec. 64.05.	Issuance by Authority of Governing Bodies.
Sec. 64.06.	Authority for Actions in Addition to Special Provisions.
Sec. 64.07.	Construction.

SEC. 64.01. DECLARATION OF POLICY. It is hereby declared to be the policy of the City to permit interest payable on indebtedness of the City or of any of its Commissions, Departments or Agencies to be payable at such time or times as may facilitate the sale of the indebtedness pursuant to the procedure set forth in this chapter as well as by any other method permitted by law. This chapter is enacted pursuant to the powers reserved to the City under Sections 3, 5 and 7 of Article XI of the Constitution of the State of California and Section 1.101 of the Charter. (Added by Ord. 134-91, App. 4/9/91)

SEC. 64.02. NAME. This chapter shall be known as the San Francisco Bond Facilitation Act. (Added by Ord. 134-91, App. 4/9/91)

SEC. 64.03. DEFINITIONS. As used in this chapter:

(a) "Bonds" means any bonds, notes, certificates of indebtedness or other evidences of indebtedness issued after April 1, 1991, by a public body which is authorized to issue bonds, notes, certificates of indebtedness or other evidence of indebtedness.

(b) "Public body" means the City or any Commission, Department or Agency thereof.

(c) "Governing body" means the governing board, commission, board of supervisors, board of directors or similar multimember body which exercises authority over a public body. (Added by Ord. 134-91, App. 4/9/91)

SEC. 64.04. INTEREST PAYMENTS. Notwithstanding any other provision of law specifying that interest on Bonds is payable semiannually, interest on Bonds is payable at the times established in the resolution, indenture, agreement or other instrument providing for the issuance of the Bonds. (Added by Ord. 134-91, App. 4/9/91)

SEC. 64.05. ISSUANCE BY AUTHORITY OF GOVERNING BODIES. Notwithstanding any other provision of law specifying that Bonds shall be issued pursuant to a resolution of a governing body of a public body, a governing body of a public body may authorize the issuance of Bonds pursuant to a resolution, indenture, agreement or other instrument providing for the issuance of Bonds. (Added by Ord. 134-91, App. 4/9/91)

SEC. 64.06. AUTHORITY FOR ACTIONS IN ADDITION TO SPECIAL PROVISIONS. The general authority provided in this chapter is intended to be in addition to, and not limited by, specific provisions authorizing the issuance of bonds, notes or other evidences of indebtedness and is separate and complete authority for the actions authorized in this chapter. (Added by Ord. 134-91, App. 4/9/91)

SEC. 64.07. CONSTRUCTION. The powers conferred by the provisions of this chapter are in addition to and supplemental to the powers conferred by the Charter or any other ordinance or by law. (Added by Ord. 134-91, App. 4/9/91)

CHAPTER 65**RENT REDUCTION AND RELOCATION PLAN FOR TENANTS
INCONVENIENCED BY SEISMIC WORK PERFORMED PURSUANT TO
CHAPTERS 14 AND 15 OF THE SAN FRANCISCO BUILDING CODE**

- Sec. 65.1. Applicability.
- Sec. 65.2. Notice to Tenants.
- Sec. 65.3. Rent Reductions.
- Sec. 65.4. Habitable Rooms; Kitchens.
- Sec. 65.5. Rent Reduction Formula.
- Sec. 65.6. Relocation Requirements.
- Sec. 65.7. Relocation Assistance Notice.
- Sec. 65.8. Relocation Expenses.
- Sec. 65.9. Maximum Relocation Costs.
- Sec. 65.10. Rent Reductions or Relocation Payments.

SEC. 65.1. APPLICABILITY. This Chapter shall apply to all owners of residential dwelling units in San Francisco who perform seismic strengthening work on unreinforced masonry buildings pursuant to Chapters 14 and 15 of the San Francisco Building Code. (Added by Ord. 220-92, App. 7/14/92)

SEC. 65.2. NOTICE TO TENANTS. The owner or contractor shall post a notice on the tenant's door no later than 24 hours prior to beginning work in the tenant's dwelling unit. The notice shall also be delivered by first class mail or delivered in person or placed under the tenant's dwelling unit door. The notice shall state when a room or rooms are to be made available for the contractor and shall state when the tenant will have the room or rooms back for his or her use, and shall include other information as specified by the Director of the Rent Board. (Added by Ord. 220-92, App. 7/14/92)

SEC. 65.3. RENT REDUCTIONS. A tenant who loses the use of one or more rooms during the course of the seismic strengthening program is entitled to reimbursement by the owner for lost use. For purposes of this chapter, "lost use" shall be defined as any loss of use of a room undergoing seismic work for the period stated in the contractor's notice as provided in Section 65.2 above. The permanent loss of one percent or less of the habitable square footage of the entire dwelling unit shall be deemed *de minimis* and therefore shall not constitute "lost use." If the permanent loss of habitable square footage of the entire dwelling unit exceeds one percent, then the Rent Board will determine whether or not the loss is *de minimis*. (Added by Ord. 220-92, App. 7/14/92)

SEC. 65.4. HABITABLE ROOMS; KITCHENS. For purposes of this Chapter, "rooms" are those habitable rooms defined in Section 203.8 of the San Francisco Housing Code. A legal kitchen is a habitable room. (Added by Ord. 220-92, App. 7/14/92)

SEC. 65.5. RENT REDUCTION FORMULA. The following method shall be used to calculate rent reductions:

- (a) Total daily rent is the monthly rent divided by 31;
- (b) Value of a room per day is the total daily rent divided by the number of rooms in the dwelling unit;
- (c) Days of lost use equals the number of days posted in the contractor's notice set forth in Section 65.2 above or the actual number of days that the room is unavailable for use, whichever is greater;
- (d) Value of a room per day times the number of days of lost use times the number of rooms lost equals the rent reduction;
- (e) For purposes of Subsection (d) above, a legal kitchen which has lost its use is counted as two rooms. For purposes of Subsection (b) above, a legal kitchen counts as one room;
- (f) In addition to any rent reduction authorized by Subsection (d) above, there shall be a rent reduction of 100 percent of the total daily rent after the first four hours of loss of heat, electricity or water in one or more usable rooms. There shall be a like reduction for every 24-hour period, or fraction thereof, until the heat, electricity or water is restored. (Added by Ord. 220-92, App. 7/14/92)

SEC. 65.6. RELOCATION REQUIREMENTS. No tenant shall be required to vacate his or her dwelling unit during the course of the seismic strengthening of the building unless the owner offers the tenant one of the following:

- (a) A comparable dwelling unit in the same building;
- (b) A reasonably proximate, comparable dwelling unit in a building licensed by the City to provide relocation assistance and services to temporarily displaced tenants; or
- (c) Payment of \$33 per tenant per day paid in advance at one-week intervals, unless the tenant must relocate for more than 21 days, in which case the payment shall be paid in advance at one-month intervals. (Added by Ord. 220-92, App. 7/14/92)

SEC. 65.7. RELOCATION ASSISTANCE NOTICE. The owner shall notify the tenant at least 30 days in advance which form of relocation assistance will be available and, if applicable, the estimated total cash amount. The notice shall state the estimated length of time the tenant will be displaced from his or her dwelling unit. (Added by Ord. 220-92, App. 7/14/92)

SEC. 65.8. RELOCATION EXPENSES. At least 10 days prior to the relocation date on the notice in Section 65.7 above, the owner shall offer the tenant the services of a mover or a payment of \$400 per room. (Added by Ord. 220-92, App. 7/14/92)

SEC. 65.9. MAXIMUM RELOCATION COSTS. The owner's total liability for relocation costs under Sections 65.6, 65.7 and 65.8 shall not exceed \$1,500 per dwelling unit per month. (Added by Ord. 220-92, App. 7/14/92)

SEC. 65.10. RENT REDUCTIONS OR RELOCATION PAYMENTS. A tenant who receives relocation assistance shall not receive a rent reduction for his or her dwelling unit under Section 65.3 above. (Added by Ord. 220-92, App. 7/14/92)

CHAPTER 66**SEISMIC SAFETY RETROFIT PROGRAM****Sections:**

Sec. 66.1.	Definitions.
Sec. 66.2.	Program Regulations.
Sec. 66.3.	Amount and Use of Program Funds.
Sec. 66.4.	Loan Period.
Sec. 66.5.	Preservation of Housing.
Sec. 66.6.	Program Board.

SEC. 66.1. DEFINITIONS. Unless otherwise indicated by the context, the following definitions shall govern construction of terms in this Chapter:

(a) "Below market rate loan" shall mean a loan made from the proceeds of any individual series of bonds issued under the Program which shall bear an interest rate that yields a total annual return to the City that equals 1/3 of the City's cost of funds for that series.

(b) "City's cost of funds" for any individual series of bonds issued under the program shall mean the true interest cost as set forth in the resolution of the Board of Supervisors awarding that series of bonds.

(c) "Deferred loan" is a below market rate loan on which repayment of principal and interest is deferred until the sooner to occur of (1) 20 years after the loan is made or (2) the borrower transfers title to the building whose improvements were financed by the loan proceeds. Deferred interest shall accrue and be repaid at the time the principal amount of the deferred loan is due.

(d) "Fund" shall mean the Seismic Strengthening Loan Fund, established pursuant to Administrative Code Section 10.117-110.

(e) "Market rate loan" shall mean a loan made from the proceeds of any individual series of bonds issued under the program which shall bear an interest rate that, when coupled with the annual administrative fees charged by the City, yields a total annual return to the City that equals the City's cost of funds for that series, plus 100 basis points.

(f) "Median income" shall mean the median income for San Francisco PMSA, adjusted for household size, as published from time to time by the United States Department of Housing and Urban Development, or any successor to that figure published by that department or any successor to that department.

(g) "Program" shall mean the seismic safety retrofit bond and loan program funded by the fund and established by this Chapter.

(h) "Program board" shall mean the program board established pursuant to Section 66.6.

(i) "Seismic strengthening" shall mean actions taken by or on behalf of the owner of a building to comply with the requirements of Chapters 14 and 15 of the San Francisco Building Code, as amended from time to time.

(j) "UMB" shall mean an unreinforced masonry bearing wall building, the seismic strengthening of which may be financed by loan from the fund. (Added by Ord. 1-93, App. 1/7/93)

SEC. 66.2. PROGRAM REGULATIONS. (a) The Board of Supervisors shall adopt by ordinance those regulations and rules for the program that the Board of Supervisors determines appropriate. Those regulations shall address matters including, but not limited to, program and fund administration, nondiscrimination, qualification for loans, loan documentation and enforcement. (Added by Ord. 1-93, App. 1/7/93)

SEC 66.3. AMOUNT AND USE OF PROGRAM FUNDS. (a) A maximum of \$350,000,000 will be raised through the sale of general obligation bonds of the City for deposit into the fund for use in the program and for payment of bond issuance costs.

(b) A maximum of \$150,000,000 of the fund shall be made available for below market rate loans under the program for seismic strengthening of UMB's in which 50 percent or more of the floor area is residential and at least 70 percent of the residential units are and will continue to be affordable to and occupied by a household whose income is at or below 60 percent of median income.

(c) Of the \$150,000,000 available for below market rate loans, a maximum of \$60,000,000 shall be made available for deferred loans under the program for seismic strengthening of UMB's in which 60 percent or more of the floor area is residential and at least 80 percent of the residential units are and will continue to be affordable to and occupied by a household whose income is at or below 40 percent of median income.

(d) A maximum of \$200,000,000 of the fund shall be made available for market rate loans for seismic strengthening of UMB's not qualifying for loans under Subsections 66.3(b) or 66.3(c).

(e) To the extent legally required for completion of the seismic strengthening of or to permit occupancy of a building, up to 25 percent of the proceeds of any loan funded under the program may be spent on improvements to protect the life or safety of or to provide disability access for occupants of that building. (Added by Ord. 1-93, App. 1/7/93)

SEC. 66.4. LOAN PERIOD. All loans made under the program shall be fully amortized over a period of 20 years, provided that all principal and interest payments under a deferred loan shall be repaid in a single lump sum at the end of the deferred loan period. (Added by Ord. 1-93, App. 1/7/93)

SEC. 66.5. PRESERVATION OF HOUSING. (a) Any loan, including a market rate loan, used to finance seismic strengthening of a residential structure containing units rented to households specified in Section 50079.5 of the California Health and Safety Code before strengthening shall be subject to a regulatory agreement and related documents that will ensure that the number of those units in the structure will not be reduced and will remain available at affordable rents pursuant to Section 50053 of the California Health and Safety Code (1) for as long as any portion of the loan is unpaid, and (2) in the case of below market rate loans repaid in full in less than 20 years, for at least 20 years.

(b) In the case of below market rate loans, the regulatory agreement and related documents will include provisions to assure the continued affordability and occupancy, for at least 20 years, by households as described in Section 66.3, and such other

restrictions and requirements as deemed appropriate by the Board of Supervisors or the entity designated as administrator of the program.

(c) In addition to any other restriction on the reduction of the number of residential units set forth in this Chapter, any loan made under the program that is used to finance seismic strengthening shall be subject to a regulatory agreement and related documents that will ensure that the number of residential units, if any, in the structure being strengthened will not be reduced for as long as any portion of the loan is unpaid except if one of the following conditions is met at the time that the loan is made: (1) compliance with engineering requirements necessitates a reduction in the number of residential units; (2) the loss of units is required to correct substandard housing conditions as described in the Program regulations; or (3) the structure is an owner-occupied mixed-use building with four or fewer residential units. (Added by Ord. 1-93, App. 1/7/93)

SEC. 66.6. PROGRAM BOARD. (a) The Board of Supervisors hereby finds and declares that the individuals appointed to the office of Program Board member are intended to represent and further (1) the interests of persons who own a UMB or are tenants in a UMB, and (2) the interests of persons who own an interest in a business enterprise that owns a UMB, or is a tenant in a UMB, and that such representation and interest will ultimately serve the public interest. Accordingly, the Board of Supervisors finds that for purposes of persons who hold such office, ownership of or tenancy in a UMB or ownership of a business enterprise that owns a UMB or is a tenant in a UMB is tantamount to and constitutes the public generally within the meaning of Section 87103 of the California Government Code. Nothing in this legislation is intended to imply that the members of the Program Board, other than the member who is a member of the Board of Supervisors, are public officials within the meaning of the Political Reform Act.

(b) There shall be a 13 member Program Board which shall consist of the following six persons or their designees who shall be nonvoting members:

- (1) The Director of Business and Economic Development;
- (2) The Director of the Mayor's Office of Housing;
- (3) The Controller;
- (4) The Director of the Bureau of Building Inspection;
- (5) The Director of the Department of City Planning; and
- (6) The President of the Landmarks Preservation Advisory Board;

and seven voting members who shall consist of one member of the Board of Supervisors, who shall be appointed by the President of the Board of Supervisors, and one member, who shall be appointed by the Board of Supervisors, from each of the following six groups:

- (1) Persons who own a nonresidential UMB or who own a business that owns a nonresidential UMB, or a person sponsored by a member of either such group;
- (2) Persons who are tenants of, or owners of a business that is a tenant of, a nonresidential UMB, or a person sponsored by a member of either such group;
- (3) Persons who are owners of a residential UMB or who own a business that owns a residential UMB, or a person sponsored by a member of either such group;
- (4) Persons who are tenants of a residential UMB, or a person sponsored by a member of such a group;

(5) Persons whose membership on the Program Board has been sponsored by a nonprofit corporation that owns or manages a residential UMB; and

(6) Persons whose membership on the Program Board has been sponsored by a nonprofit corporation that owns or manages a nonresidential UMB.

(c) The Board of Supervisors shall appoint a nine person Advisory Board that shall make recommendations to and respond to requests for advice from the Program Board. The Advisory Board shall be composed of one member from each of the following groups:

(1) Persons active in historic preservation in San Francisco;

(2) Disabled persons;

(3) Persons employed by or owning an interest in a financial or mortgage brokerage institution;

(4) Trade union members or officers;

(5) Persons active in efforts to preserve and protect the physical environment of San Francisco;

(6) Persons who own an interest in a business that is certified by the Human Rights Commission as a Disadvantaged Business Enterprise;

(7) Persons employed in or owning an interest in a business engaged in the construction industry;

(8) Licensed structural engineers; and

(9) Licensed architects.

(d) The Board of Supervisors shall have the exclusive authority to determine the adequacy of the credentials of each Program Board member and each Advisory Board member.

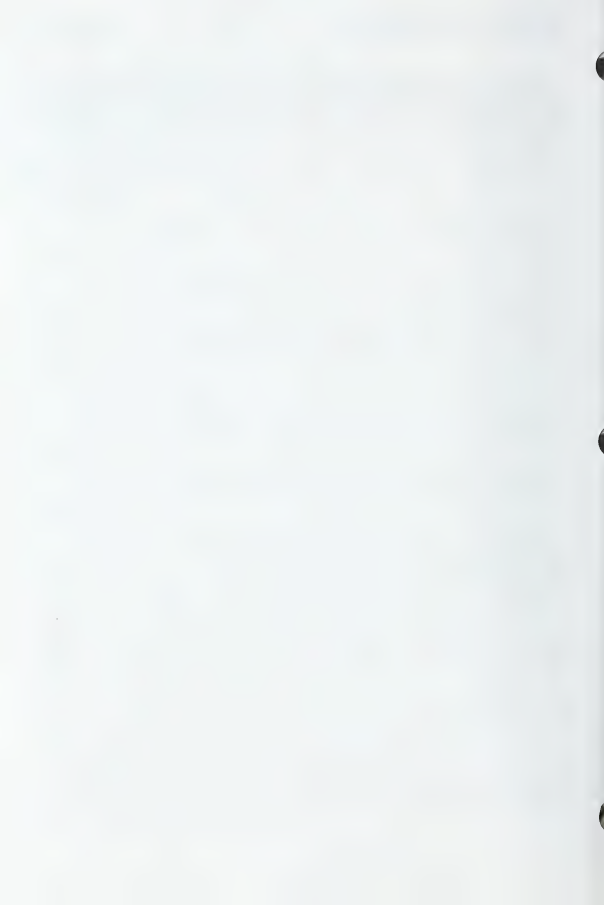
(e) Each member of the Program Board and of the Advisory Board shall serve for a term of two years and until his or her successor assumes office, but may be removed sooner, for any reason or no reason, by a resolution adopted by the Board of Supervisors.

(f) The Program Board shall recommend to the Board of Supervisors regulations for administration of the program, including, but not limited to, credit standards to be used in determining eligibility for loans under the program, loan documentation to be used in the program, enforcement procedures, staffing and general policies. The Program Board shall also advise the City officials designated by the Board of Supervisors as the administrators of the program on matters of general operation and implementation of the program. The Program Board shall have no other function or authority except to make those recommendations to the Board of Supervisors and to the program administrative staff. The Program Board shall not interfere in or provide advice with respect to the evaluation of any specific loan application or the enforcement of any specific loan terms.

(g) The recommendations of the Program Board shall be advisory only, and the Board of Supervisors may adopt any regulations that it determines appropriate and the program administrators may undertake any actions that they deem appropriate notwithstanding the recommendations of the Program Board.

(h) In making its recommendations to the Board of Supervisors and to other City officials with respect to the implementation and the operation of the program, the Program Board shall hold public hearings to receive testimony from persons interested in or affected by the program.

(i) The Director of Business and Economic Development’s office shall provide staff assistance for the Program Board as is reasonable and feasible within the budget and staff available to the Director of Business and Economic Development’s office.
(Added by Ord. 1-93, App. 1/7/93; amended by Ord. 287-96, App. 7/12/96)



CHAPTER 66A**SEISMIC SAFETY LOAN PROGRAM**

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SEC. 66A.1. PURPOSE. The purpose of this Chapter 66A is to implement a seismic safety loan program ("Program") by describing the conditions under which the City and County of San Francisco ("City") may lend taxable general obligation bond proceeds to building owners to finance the seismic retrofit of unreinforced masonry buildings. In addition to the requirements of Administrative Code Chapter 66 and this Chapter 66A, the Program shall also be subject to all federal, state and local laws applicable to the issuance of bonds related to the Program, the making of loans, specific seismic retrofit standards, and any other applicable matters. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.2. DEFINITIONS. Unless otherwise defined below, capitalized terms used in this Chapter 66A shall have the meanings set forth in this Chapter 66A or in Administrative Code Chapter 66.

(1) "Annual Debt Service" means the annual sum of all payments due on obligations secured by the Property, as defined below, for the 12 months following

the date of application for a Seismic Safety Loan, as defined below, including any payments which will be due on the proposed Seismic Safety Loan, but shall not include depreciation of the Property.

(2) "Annual Net Operating Income" means the annual sum of all gross income estimated to be generated by the Property, as defined below, during the 12 months following the date of application for a Seismic Safety Loan, as defined below, less the sum of all operating expenses for the Property during such period.

(3) "Applicant" means an applicant for a Seismic Safety Loan, as defined below.

(4) "Bolts Plus" means the retrofit standard defined in San Francisco Building Code Section 1603B and permitted under San Francisco Building Code Section 1609C.2.

(5) "Bond Proceeds" means the proceeds of taxable general obligation bonds to be issued by the City to finance the Program, including interest on such proceeds.

(6) "Borrower" means a recipient of a Seismic Safety Loan, as defined below.

(7) "Building Code" means the San Francisco Building Code, as it may be amended from time to time.

(8) "Debt Service Coverage Ratio" shall be the ratio of Annual Net Operating Income on the Property, as defined below, to Annual Debt Service on the Property.

(9) "General Procedure" means the retrofit standard defined in Building Code Section 1610C.

(10) "Loan Committee" means the Unreinforced Masonry Building Loan Committee, as further defined in Section 66A.14.

(11) "Loan to Value Ratio" means the ratio of the outstanding principal balance of all financing secured by the Property, as defined below, including the proposed Seismic Safety Loan, as defined below, to the Market Value of the Property.

(12) "Market Value" of the Property, as defined below, means the value of the Property as determined by an appraiser approved by the City who possesses a State of California appraisal license, certified general, based on both historical data and projected income and value following completion of Seismic Strengthening, as defined in Administrative Code Section 66.1(i). Such appraisal shall be dated no earlier than 90 days prior to the date of application for a Seismic Safety Loan, as defined below. The Applicant shall be fully responsible for the cost of obtaining such an appraisal. The Program Administrator, as defined below, shall provide prospective Applicants with a list of preapproved appraisers. The Applicant may obtain the prior written approval of the Program Administrator in the event the Applicant wishes to utilize an appraiser other than as specified on such list.

(13) "Program Administrator" means a representative of the Director of Business and Economic Development's office, as specified in Section 66A.27.

(14) "Program Regulations" means regulations to be developed by the Program Administrator, which will address those issues specified in this Chapter 66A, in addition to any other matters deemed necessary by the Program Administrator in order to implement Chapters 66 and 66A.

(15) "Property" means an unreinforced masonry bearing wall building ("UMB"), as defined in Administrative Code Section 66.1(j), together with the legal parcel(s) of real property on which the UMB is located.

(16) "Regulatory Agreement" means an agreement to be executed by the Property owner and recorded against the Property in order to restrict subsequent use

of the Property, as further described in Administrative Code Section 66.5 and in this Chapter 66A.

(17) "Section 3403.6" means the retrofit standard defined in Building Code Section 3403.6.

(18) "Seismic Safety Loan" means a loan made pursuant to Administrative Code Chapters 66 and 66A, and includes Below Market Rate Loans, Deferred Loans and Market Rate Loans, each as defined in Administrative Code Section 66.1.

(19) "Special Procedure" means the retrofit standard defined in Building Code Section 1611C. (Added by Ord. 100-94, App. 3/11/94; amended by Ord. 287-96, App. 7/12/96)

SEC. 66A.3. PROGRAM PERSONNEL. In addition to the Program Administrator and Loan Committee, as further described in this Chapter 66A, the following individuals or entities shall assist in the operation of the Program. Each individual/entity shall be selected through a request for proposals process to be conducted by the UMB Program Administrator. The City shall enter into agreements to obtain the services of such individuals and/or entities according to applicable City procedures and subject to all required City approvals.

(1) **Loan Packager.** The loan packager(s) may be private lender(s) or financial consultant(s), as approved by the Program Administrator (collectively, the "Loan Packager"). The duties of the Loan Packager are described in Section 66A.11, below.

(2) **Financial Consultant.** The financial consultant ("Financial Consultant") shall perform the duties described in Sections 66A.13 and 66A.17, below.

(3) **Loan Servicer.** The Loan Servicer shall be a private lender and/or loan servicer ("Loan Servicer"). The duties of the Loan Servicer are described in Section 66A.18, below. (Added by Ord. 100-94, App. 3/11/94; amended by Ord. 237-96, App. 6/11/96)

SEC. 66A.4. LENDING CRITERIA. Applicants must satisfy the following criteria, at a minimum, in order to be eligible for consideration for receipt of a Seismic Safety Loan. The Loan Committee may also consider those additional factors described in Section 66A.4(2) in determining whether to approve a Seismic Safety Loan. In no event will an Applicant's satisfaction of the criteria in this Section 66A.4 be deemed to guarantee approval of a Seismic Safety Loan for the Applicant.

(1) **Underwriting Criteria.**

(a) **Below Market Rate Loans.** Each Applicant for a Below Market Rate Loan must show that the Property to be rehabilitated satisfies one of the following criteria:

(i) The Loan to Value Ratio of the Property shall not exceed 95 percent, and the Property shall have a minimum Debt Service Coverage Ratio of 1.1x; or

(ii) The Loan to Value Ratio of the Property shall not exceed 90 percent, and the Property shall have a minimum Debt Service Coverage Ratio of 1.05x.

(b) **Deferred Loans.** Each Applicant for a Deferred Loan must show that the Property to be rehabilitated satisfies the following criteria: The Loan to Value Ratio of the Property shall not exceed 95 percent.

(c) **Market Rate Loans.** Each Applicant for a Market Rate Loan must show that the Property to be rehabilitated satisfies one of the following criteria:

(i) The Loan to Value Ratio shall not exceed 95 percent, and the Property shall have a minimum Debt Service Coverage Ratio of 1.1x; or

(ii) The Loan to Value Ratio shall not exceed 90 percent, and the Property shall have a minimum Debt Service Coverage Ratio of 1.05x.

(2) **Other Lending Criteria.** In addition to the underwriting criteria specified in Section 66A.4(1), above, the Loan Committee shall evaluate each of the following factors for each Applicant, as these factors are more fully addressed in the Program Regulations:

(a) **Creditworthiness.** The Loan Committee shall evaluate an Applicant's credit history and likelihood of making timely loan repayments.

(b) **Net Worth.** The Loan Committee shall examine an Applicant's net worth and income.

(c) **Experience.** The Loan Committee shall determine whether an Applicant has experience with rehabilitation projects, and whether such experience may contribute to the likelihood of timely completion of the Seismic Strengthening and repayment of the Seismic Safety Loan.

(d) **Scope of Work.** The Loan Committee shall assess the degree to which the proposed scope and timing of the Seismic Strengthening will address the needs of the Property and the surrounding neighborhood with regard to habitability and marketability of the Property.

(e) **Additional Factors.** In the event a Property does not meet the Loan to Value and/or Debt Service Coverage Ratio Requirements set forth above, the Loan Committee may consider the following factors in determining whether to approve a Seismic Safety Loan, in the following order of priority:

(i) The Applicant's ability and willingness to repay the Seismic Safety Loan, including the availability of additional real property collateral as described in Section 66A.6(2), and the availability of personal or corporate guarantees, as described in Section 66A.6(2);

(ii) The extent to which proposed rehabilitation costs may be reduced in order to permit the Applicant to qualify for a lesser Seismic Safety Loan amount; and

(iii) The extent to which existing lenders of financing secured by the Property have agreed to subordinate the liens of their deeds of trust or other encumbrances to the lien of the deed of trust ("Deed of Trust") in favor of the City securing a Borrower's obligations in connection with a Seismic Safety Loan. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.5. DOCUMENTATION FOR SEISMIC SAFETY LOANS.

(1) Each Seismic Safety Loan shall be evidenced by a loan agreement, a promissory note, a Deed of Trust, a Regulatory Agreement (where applicable), escrow instructions, and any other documents reasonably required to evidence the Seismic Safety Loan and adequately protect the City's interest in the Applicant's completion of the Seismic Strengthening and repayment of the Seismic Safety Loan. The form and content of such loan documents shall be reviewed and approved by the City Attorney's Office and the Program Administrator.

(2) As a condition to the close of any Seismic Safety Loan, the Deed of Trust and Regulatory Agreement (where applicable) shall be recorded as liens against the Property, subject only to those encumbrances approved by the City. The loan documents shall provide that a Seismic Safety Loan shall, at the City's option, be due and payable immediately upon the close of escrow of any sale or transfer of the Property. The City may permit subsequent owners of the Property or transferees of the Borrower

protect the life or safety of or to provide legally required disability access for occupants of the Property. In the event the Program Board determines that greater than 25 percent of the amount of a Seismic Safety Loan is generally requested to complete the work described in this Section 66A.9(2), the Program Board may recommend to the Board of Supervisors that this Section be amended to increase the 25 percent cap. (Added by Ord. 100-94, App. 3/11/94; amended by Ord. 237-96, App. 6/11/96)

SEC. 66A.10. BIDDING REQUIREMENTS; MINORITY/WOMEN BUSINESS ENTERPRISES. (1) Prior to applying for a Seismic Safety Loan, each Applicant shall obtain a minimum of three qualified bids for performance of the work to be financed by a Seismic Safety Loan. All three bids must be included with an application. At least one of those bids shall be from a contractor and/or engineer, whichever type of professional with whom the Applicant intends to enter into a contract for performance of Seismic Strengthening, which has been certified by the City's Human Rights Commission, pursuant to Administrative Code Section 12D.6 (B)1, as an MBE, WBE or M/WBE, as defined in Administrative Code Section 12D.5. The Program Administrator shall make available to Applicants a list of certified MBEs, WBEs and M/WBEs from which such bids may be solicited. In no event shall the Applicant be required to pay any bid preparation fee to the MBE, WBE and/or M/WBE.

(2) It is the goal of the Board of Supervisors that 25 percent of all Seismic Safety Loan proceeds disbursed in the Program be paid by Borrowers to contractors who are MBEs, WBEs and/or M/WBES. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.11. LOAN PACKAGING. (1) **Duties.** Loan packaging shall consist of preparing an application for a Seismic Safety Loan for submission to the Loan Committee. An Applicant may prepare his or her own loan package, or may utilize the services of a Loan Packager.

(2) **Loan Packaging Fees.** Loan packaging fees charged by the Loan Packager shall be included in the principal balance of an approved Seismic Safety Loan, and shall be paid to the Loan Packager at the time of the close and funding of such Seismic Safety Loan. In no event shall the amount of such fees for any Seismic Safety Loan exceed five percent the principal balance of such loan. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.12. LOAN APPLICATION PROCESS. Loan application information and forms may be obtained from the Program Administrator, or such other location or individual as may be determined by the Program Administrator. The application package will indicate procedures for returning completed applications. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.13. INITIAL REVIEW OF LOAN APPLICATIONS BY FINANCIAL CONSULTANT. Applicants or the Loan Packager shall submit completed applications to the Financial Consultant for an initial review of consistency with the regulations in this Chapter 66A. The Financial Consultant shall then take one of the following actions:

(1) Return any incomplete or insufficient loan application to the Loan Packager or to the Applicant, in cases where the Applicant does not utilize a Loan Packager,

together with a brief explanation of any additional information needed to complete the application; or

(2) Transmit the complete loan application to the Program Administrator, to be forwarded to the Loan Committee, together with an indication of whether (a) the application meets the minimum criteria set forth in Sections 66A.4, and (b) the Financial Consultant recommends approval of the loan, and the basis for such recommendation. In addition, the Program Administrator shall provide copies of the Financial Consultant's recommendation to the Applicant at least five days prior to consideration of the application by the Loan Committee. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.14. UNREINFORCED MASONRY BUILDING LOAN COMMITTEE. (1) **Members.** The Loan Committee shall consist of the following members as appointed by the Director of Business and Economic Development, each of whom shall be voting members:

- (a) The Program Administrator or his/her designee;
- (b) A financial expert or mortgage broker;
- (c) A real estate appraiser or other commercial real estate expert;
- (d) A finance expert, with experience in affordable housing development, from the Mayor's Office of Housing or the successor to that office, or if no such office exists, from a City department with experience in housing development and finance; and

(e) An engineering cost estimator.

(2) **Quorum.** Three members of the Loan Committee shall constitute a quorum for the purposes of accomplishing the duties set forth in Subsection (3) below. A simple majority vote of three members shall be necessary to approve any loan application or take any other action. All decisions of the Loan Committee shall be final.

(3) **Meetings.** The Loan Committee shall meet on a monthly basis at a time and place determined by the Loan Committee. All meetings shall be noticed in accordance with applicable State and local law.

(4) **Duties.** The Loan Committee shall perform the following duties:

(a) The Loan Committee shall meet on a monthly basis at times and places specified by the Loan Committee, and determine whether to approve or disapprove a loan application. In the case of disapproval, the Loan Committee may indicate the reasons for such disapproval, and the Applicant may choose to reapply in accordance with the requirements of this Chapter 66A.

(b) The Loan Committee may make approval of any loan subject to satisfaction of specific conditions subsequent.

(5) **Priority of Applications.** In the event the Loan Committee receives applications for Seismic Safety Loans in excess of Bond Proceeds then available for Loans, the Loan Committee shall consider applications according to the following priorities:

(a) Properties which have been assigned a risk level under Section 14043(b)(2) (B) of the San Francisco Building Code which imposes a shorter period for completion of Seismic Strengthening shall receive a greater priority than those Properties which have received a risk level which allows a longer period for compliance.

(b) Properties with architectural or historic significance (including only those Properties listed in Article 10 of the City Planning Code (City Landmarks and Historic

Districts), Article 11 of the City Planning Code (Downtown Properties), the California Register of Historical Resources or the National Register of Historic Places) shall receive a greater priority than Properties not so listed.

(c) Properties with existing residential or commercial tenants shall receive a greater priority than vacant Properties.

(d) Applications which include a bid containing a hiring plan to hire more than 25 percent of their total construction workforce, measured in labor hours, from the designated pool of economically disadvantaged individuals, as described in Section 66A.23, and accompanying Program Regulations, shall receive a greater priority than applications with no such hiring plan. (Added by Ord. 100-94, App. 3/11/94; amended by Ord. 287-96, App. 7/12/96)

SEC. 66A.15. LOAN COMMITTEE DECISIONS. Even if an Applicant meets all of the eligibility criteria in this Chapter 66A, the Loan Committee may, in its discretion, choose not to approve any proposed Seismic Safety Loan or to approve any Seismic Safety Loan for less than the amount requested by the Applicant. Such a decision may, but need not, be based upon the Loan Committee's determination that the amount of the requested loan would prevent the optimal use of the Bond Proceeds during any fiscal year, that the demand for Bond Proceeds during any fiscal year exceeds the available supply of such proceeds, or upon any other factor. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.16. CLOSE OF SEISMIC SAFETY LOAN. The Program Regulations shall contain procedures for the close of each Seismic Safety Loan, including required title insurance and endorsements for the benefit of the City. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.17. LOAN DISBURSEMENTS AND MONITORING BY FINANCIAL CONSULTANT. (1) **Disbursement of Bond Proceeds to Financial Consultant.** The City's Treasurer shall be responsible for disbursing to the Financial Consultant, from Bond Proceeds, the monies needed in connection with the close of any Seismic Safety Loan. Such disbursements shall be made from time to time or upon the close of a Seismic Safety Loan, as determined by the Treasurer.

(2) **Duties of Financial Consultant.** In addition to the duties described in Section 66A.13, above, the Financial Consultant shall be responsible for disbursement of Seismic Safety Loan proceeds and monitoring construction progress. In addition, the Financial Consultant shall work with those departments or individuals designated by the Program Administrator to monitor compliance with all applicable loan documents, Administrative Code Chapters 66 and 66A, and all other applicable State and local laws, except as provided in Section 66A.24, below. The Financial Consultant shall disburse loan proceeds to the Borrower in accordance with disbursement procedures specified in the Program Regulations. Such guidelines shall, at a minimum, require the Financial Consultant or his/her agent to periodically inspect the progress of Seismic Strengthening and to disburse loan proceeds based on the level of completion.

(3) **Financial Consultant Fees.** The City may pay required fees to the Financial Consultant from the Bond Proceeds. (Added by Ord. 100-94, App. 3/11/94; amended by Ord. 237-96, App. 6/11/96)

SEC. 66A.18. LOAN SERVICING. (1) **Duties of Loan Servicer.** The Loan Servicer shall receive repayments of Seismic Safety Loans, account for all such repayments, and provide to the Program Administrator monthly statements of such accounts for each outstanding Seismic Safety Loan.

(2) **Loan Servicing Fees.** The City may pay required fees to the Loan servicer from the Bond Proceeds. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.19. BASE WAGES. Except in cases where prevailing wages are paid pursuant to Section 66A.20, all individuals performing work financed in whole or part by a Seismic Safety Loan shall be paid not less than \$9.00 per hour, excluding overhead and benefits. (Added by Ord. 100-94, App. 3/11/94; amended by Ord. 237-96, App. 6/11/96)

SEC. 66A.20. PREVAILING WAGES. In cases where the total loan package exceeds \$750,000, all individuals performing such work shall be paid not less than the highest general prevailing rate of wages as determined in accordance with Administrative Code Section 6.37 or other applicable City laws regarding the determination of prevailing wages. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.21. PROPERTY/LIABILITY INSURANCE. As a condition precedent to receipt of a Seismic Safety Loan, the Borrower shall maintain or cause to be maintained insurance in types and amounts determined by the City's Risk Manager and the Program Administrator. The Program Regulations shall include guidelines for such required insurance coverage, which may include but shall not be limited to general liability insurance, property insurance, and workers compensation coverage. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.22. HEALTH INSURANCE. Except in cases where prevailing wages are paid pursuant to Section 66A.20, construction contractors performing work financed in whole or part by a Seismic Safety Loan shall provide to their employees and their employees' dependents health coverage of a type and cost similar to that generally provided by a Health Maintenance Organization or Kaiser Hospitals, as will be more specifically described in the Program Regulations, until such time as a national health service plan applicable to such individuals is implemented by the federal government. Guidelines regarding the cost and type of health coverage required by this Section shall be specified in the Program Regulations. The cost for such coverage shall be borne solely by the contractor; provided that dependent coverage shall be offered to the employee under the Health Maintenance Organization's plan at the employee's expense. (Added by Ord. 100-94, App. 3/11/94; amended by Ord. 237-96, App. 6/11/96)

SEC. 66A.23. ECONOMICALLY DISADVANTAGED HIRE REQUIREMENT. (1) According to a program to be more fully described in the Program Regulations, in cases where the total principal amount of a Seismic Safety Loan is equal to or greater than \$200,000, borrowers shall require that their contractors performing work financed in whole or part by a Seismic Safety Loan hire economically disadvantaged individuals to comprise no less than 25 percent of each contractor's total construction work force, measured in labor hours. For purposes of this Section

66A.23, an “economically disadvantaged individual” means an individual who earns no more than 25 percent of median income for the San Francisco Metropolitan Statistical Area, as determined by the United States Department of Housing and Urban Development from time to time. The Program Administrator will collaborate with a consortium of tax-exempt nonprofit community-based employment agencies, to be designated in the Program Regulations, to refer and place these economically disadvantaged persons.

(2) In cases where the total principal amount of a Seismic Safety Loan is less than \$200,00, it shall be a goal that 25 percent of the contractor’s new hires be economically disadvantaged individuals, as defined above. (Added by Ord. 100-94, App. 3/11/94; amended by Ord. 237-96, App. 6/11/96)

SEC. 66A.24. MONITORING FOR COMPLIANCE WITH REGULATORY AGREEMENTS. The Mayor’s Office of Housing or its successor shall be responsible for monitoring compliance with Regulatory Agreements. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.25. PROGRAM REVIEW. The Program Board shall review all aspects of the Program after one and one-half years after commencement of the Program to determine whether any amendments to this Chapter 66A, or any other applicable local laws, should be recommended to the Board of Supervisors for adoption. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.26. PROGRAM REGULATIONS. The Program Administrator shall develop Program Regulations to address the issues specified in this Chapter 66A and such other matters as deemed necessary by the Program Administrator for efficient administration of the Program. Such Program Regulations shall be subject to review and approval by the Director of Business and Economic Development and the City Attorney’s Office. (Added by Ord. 100-94, App. 3/11/94; amended by Ord. 287-96, App. 7/12/96)

SEC. 66A.27. PROGRAM MANAGEMENT. The Director of Business and Economic Development shall be responsible for management of the Program in accordance with these requirements. The Director of Business and Economic Development shall appoint an individual to serve as the Program Administrator, who will be responsible for the day-to-day management of the Program. (Added by Ord. 100-94, App. 3/11/94; amended by Ord. 287-96, App. 7/12/96)

SEC. 66A.28. AFFIRMATIVE ACTION. The City’s affirmative action goals, as described in Administrative Code Section 12B.4, shall apply to contractors performing Seismic Strengthening under contracts with Borrowers under this Program. Compliance with those goals shall be monitored by the Director of Business and Economic Development and the Program Administrator, as specified in Administrative Code Section 66A.27. (Added by Ord. 100-94, App. 3/11/94; amended by Ord. 287-96, App. 7/12/96)



to assume an existing Seismic Safety Loan, provided that the Property and the subsequent owners or transferees continue to meet the criteria set forth in Section 66A.4, and that any such subsequent owner or transferee expressly agrees in writing to assume all of the Borrower's obligations under the Seismic Safety Loan documents.

(3) A default under any document(s) evidencing a Seismic Safety Loan, including but not limited to a Regulatory Agreement, shall constitute a default under the loan agreement and allow the City to pursue any remedies available at law or in equity. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.6. SECURITY FOR SEISMIC SAFETY LOANS. (1) Deed of Trust. As security for Borrower's obligations in connection with the Seismic Safety Loan, the Borrower shall execute and deliver a deed of trust and assignment of rents ("Deed of Trust") on the Property in favor of the City. As a condition to the close of the Seismic Safety Loan, the City shall record the Deed of Trust against the Property, subject only to those liens and encumbrances approved in writing by the city.

(2) **Additional Collateral.** In the event an Applicant meets the other lending criteria specified in Section 66A.4(2), above, but does not meet the Loan to Value Ratio or Debt Service Coverage Ratio set forth in Section 66A.4(1), above, the Loan Committee may choose to accept any of the following collateral, in addition to the Deed of Trust:

(a) **Personal Guaranty.** In cases where (i) the Applicant is an organization exempt from taxation under the Internal Revenue laws of the United States and the Revenue and Taxation Code of the State of California as a bona fide fraternal, charitable, benevolent, religious or other nonprofit organization; and (ii) the Property does not meet the underwriting criteria set forth in Section 66A.4(1), above, then the Loan Committee may choose to accept, in addition to the Deed of Trust, a personal, corporate or other guaranty issued for the benefit of the City from an individual or entity unrelated to the Applicant ("Guaranty") to guaranty the Borrower's obligations in connection with the Seismic Safety Loan. Such guaranty shall be in form and substance satisfactory to the Loan Committee. The Loan Committee may request any information required to support the creditworthiness of the individual or party proposing to issue the Guaranty.

(b) **Additional Real Property Security.** The Loan Committee may accept additional real property security to be subject to a lien of a Deed of Trust. Such real property must be located within the nine-county San Francisco Bay Area. The Loan to Value Ratio of such additional real property shall not exceed 75 percent. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.7. SUBORDINATION OF LIENS SECURING SEISMIC SAFETY LOANS. (1) The City shall negotiate with other existing and proposed lien holders and other holders of obligations secured by the Property in order to gain a superior position for the lien of the Deed of Trust and the Regulatory Agreement, if applicable.

(2) In the case of a Market Rate Loan, the City may, in its discretion, agree to subordinate the lien of the Deed of Trust to subsequent lenders providing financing for the rehabilitation of the Property, so long as the Property continues to meet the

underwriting criteria set forth in Section 66A.4(1), above. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.8. PERMISSIBLE LOAN AMOUNTS. (1) **Determination.** The Program Board, as defined in Administrative Code Section 66.6, shall work with the City's Bureau of Building Inspection and such other City departments as determined by the Program Administrator to determine permissible cost ranges for seismic rehabilitation activities and, from that information, proposed maximum loan amounts for individual Seismic Safety Loans, based on the type of building and the work necessary to complete the Seismic Strengthening. In addition to the Program review specified in Section 66A.25, below, the Program Board shall periodically review and, as necessary, amend these amounts during the Program.

(2) **Retrofit Standards Used to Determine Permissible Amounts.**

(a) Seismic Safety Loans may be used to finance the minimum level of Seismic Strengthening work required by Chapters 14 and 15 of the Building Code, subject to Subsections (b) and (c), below.

(b) In the event a Property would qualify for Bolts Plus but the Applicant elects to comply with the Special Procedure, the amount of the Seismic Safety Loan shall be calculated based upon the sum necessary to comply with the Special Procedure.

(c) In the event a Property would qualify for the General Procedure, and the Applicant demonstrates that the cost of complying with Section 104(f) would be less than or equal to the cost of complying with the General Procedure, the amount of the Seismic Safety Loan shall be calculated based upon the sum necessary to comply with Section 104(f).

(3) **Proposed Loans in Excess of Permissible Amounts.** The Loan Committee may, in its discretion, approve Seismic Safety Loans in excess of the amounts determined in Section 66A.8(1), above, after receiving special review and approval by the Loan Committee. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.9. ELIGIBLE USES OF LOAN PROCEEDS. (1) **Seismic Rehabilitation Costs.** The principal amount of any Seismic Safety Loan may be used to pay the following costs, provided such costs are necessary for seismic safety reasons or legally required for completion of Seismic Strengthening or occupancy of a UMB:

(a) Seismic Strengthening of UMBs;

(b) Soft costs directly associated with the Seismic Strengthening, including but not limited to architectural fees, engineering fees, development of tenant protection plans, loan packaging fees, permit fees and escrow and closing fees and costs;

(c) Replacement and/or restoration of finishes disturbed during performance of the Seismic Strengthening to their condition existing as of the date of commencement of the Seismic Strengthening;

(d) Remediation or reduction of toxic materials disturbed during Seismic Strengthening in accordance with applicable federal, State or local laws; and

(e) Residential tenant relocation costs, as required by applicable laws.

(2) **Life/Safety Code Compliance and Disability Access.** Up to 25 percent of the seismic construction hard costs portion of any Seismic Safety Loan may be used, to the extent legally required for completion of the Seismic Strengthening of or to permit occupancy of a Property, to pay costs of improvements to the Property to

protect the life or safety of or to provide legally required disability access for occupants of the Property. In the event the Program Board determines that greater than 25 percent of the amount of a Seismic Safety Loan is generally requested to complete the work described in this Section 66A.9(2), the Program Board may recommend to the Board of Supervisors that this Section be amended to increase the 25 percent cap. (Added by Ord. 100-94, App. 3/11/94; amended by Ord. 237-96, App. 6/11/96)

SEC. 66A.10. BIDDING REQUIREMENTS; MINORITY/WOMEN BUSINESS ENTERPRISES. (1) Prior to applying for a Seismic Safety Loan, each Applicant shall obtain a minimum of three qualified bids for performance of the work to be financed by a Seismic Safety Loan. All three bids must be included with an application. At least one of those bids shall be from a contractor and/or engineer, whichever type of professional with whom the Applicant intends to enter into a contract for performance of Seismic Strengthening, which has been certified by the City's Human Rights Commission, pursuant to Administrative Code Section 12D.6 (B)1, as an MBE, WBE or M/WBE, as defined in Administrative Code Section 12D.5. The Program Administrator shall make available to Applicants a list of certified MBEs, WBEs and M/WBEs from which such bids may be solicited. In no event shall the Applicant be required to pay any bid preparation fee to the MBE, WBE and/or M/WBE.

(2) It is the goal of the Board of Supervisors that 25 percent of all Seismic Safety Loan proceeds disbursed in the Program be paid by Borrowers to contractors who are MBEs, WBEs and/or M/WBEs. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.11. LOAN PACKAGING. (1) **Duties.** Loan packaging shall consist of preparing an application for a Seismic Safety Loan for submission to the Loan Committee. An Applicant may prepare his or her own loan package, or may utilize the services of a Loan Packager.

(2) **Loan Packaging Fees.** Loan packaging fees charged by the Loan Packager shall be included in the principal balance of an approved Seismic Safety Loan, and shall be paid to the Loan Packager at the time of the close and funding of such Seismic Safety Loan. In no event shall the amount of such fees for any Seismic Safety Loan exceed five percent of the principal balance of such loan. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.12. LOAN APPLICATION PROCESS. Loan application information and forms may be obtained from the Program Administrator, or such other location or individual as may be determined by the Program Administrator. The application package will indicate procedures for returning completed applications. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.13. INITIAL REVIEW OF LOAN APPLICATIONS BY FINANCIAL CONSULTANT. Applicants or the Loan Packager shall submit completed applications to the Financial Consultant for an initial review of consistency with the regulations in this Chapter 66A. The Financial Consultant shall then take one of the following actions:

(1) Return any incomplete or insufficient loan application to the Loan Packager or to the Applicant, in cases where the Applicant does not utilize a Loan Packager,

together with a brief explanation of any additional information needed to complete the application; or

(2) Transmit the complete loan application to the Program Administrator, to be forwarded to the Loan Committee, together with an indication of whether (a) the application meets the minimum criteria set forth in Sections 66A.4, and (b) the Financial Consultant recommends approval of the loan, and the basis for such recommendation. In addition, the Program Administrator shall provide copies of the Financial Consultant's recommendation to the Applicant at least five days prior to consideration of the application by the Loan Committee. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.14. UNREINFORCED MASONRY BUILDING LOAN COMMITTEE. (1) **Members.** The Loan Committee shall consist of the following members as appointed by the Chief Administrative Officer, each of whom shall be voting members:

- (a) The Program Administrator or his/her designee;
- (b) A financial expert or mortgage broker;
- (c) A real estate appraiser or other commercial real estate expert;
- (d) A finance expert, with experience in affordable housing development, from the Mayor's Office of Housing or the successor to that office, or if no such office exists, from a City department with experience in housing development and finance; and

- (e) An engineering cost estimator.

(2) **Quorum.** Three members of the Loan Committee shall constitute a quorum for the purposes of accomplishing the duties set forth in Subsection (3) below. A simple majority vote of three members shall be necessary to approve any loan application or take any other action. All decisions of the Loan Committee shall be final.

(3) **Meetings.** The Loan Committee shall meet on a monthly basis at a time and place determined by the Loan Committee. All meetings shall be noticed in accordance with applicable State and local law.

(4) **Duties.** The Loan Committee shall perform the following duties:

- (a) The Loan Committee shall meet on a monthly basis at times and places specified by the Loan Committee, and determine whether to approve or disapprove a loan application. In the case of disapproval, the Loan Committee may indicate the reasons for such disapproval, and the Applicant may choose to reapply in accordance with the requirements of this Chapter 66A.

- (b) The Loan Committee may make approval of any loan subject to satisfaction of specific conditions subsequent.

(5) **Priority of Applications.** In the event the Loan Committee receives applications for Seismic Safety Loans in excess of Bond Proceeds then available for Loans, the Loan Committee shall consider applications according to the following priorities:

- (a) Properties which have been assigned a risk level under Section 14043(b)(2)(B) of the San Francisco Building Code which imposes a shorter period for completion of Seismic Strengthening shall receive a greater priority than those Properties which have received a risk level which allows a longer period for compliance.

(b) Properties with architectural or historic significance (including only those Properties listed in Article 10 of the City Planning Code (City Landmarks and Historic Districts), Article 11 of the City Planning Code (Downtown Properties), the California Register of Historical Resources or the National Register of Historic Places) shall receive a greater priority than Properties not so listed.

(c) Properties with existing residential or commercial tenants shall receive a greater priority than vacant Properties.

(d) Applications which include a bid containing a hiring plan to hire more than 25 percent of their total construction workforce, measured in labor hours, from the designated pool of economically disadvantaged individuals, as described in Section 66A.23, and accompanying Program Regulations, shall receive a greater priority than applications with no such hiring plan. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.15. LOAN COMMITTEE DECISIONS. Even if an Applicant meets all of the eligibility criteria in this Chapter 66A, the Loan Committee may, in its discretion, choose not to approve any proposed Seismic Safety Loan or to approve any Seismic Safety Loan for less than the amount requested by the Applicant. Such a decision may, but need not, be based upon the Loan Committee's determination that the amount of the requested loan would prevent the optimal use of the Bond Proceeds during any fiscal year, that the demand for Bond Proceeds during any fiscal year exceeds the available supply of such proceeds, or upon any other factor. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.16. CLOSE OF SEISMIC SAFETY LOAN. The Program Regulations shall contain procedures for the close of each Seismic Safety Loan, including required title insurance and endorsements for the benefit of the City. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.17. LOAN DISBURSEMENTS AND MONITORING BY FINANCIAL CONSULTANT. (1) **Disbursement of Bond Proceeds to Financial Consultant.** The City's Treasurer shall be responsible for disbursing to the Financial Consultant, from Bond Proceeds, the monies needed in connection with the close of any Seismic Safety Loan. Such disbursements shall be made from time to time or upon the close of a Seismic Safety Loan, as determined by the Treasurer.

(2) **Duties of Financial Consultant.** In addition to the duties described in Section 66A.13, above, the Financial Consultant shall be responsible for disbursement of Seismic Safety Loan proceeds and monitoring construction progress. In addition, the Financial Consultant shall work with those departments or individuals designated by the Program Administrator to monitor compliance with all applicable loan documents, Administrative Code Chapters 66 and 66A, and all other applicable State and local laws, except as provided in Section 66A.24, below. The Financial Consultant shall disburse loan proceeds to the Borrower in accordance with disbursement procedures specified in the Program Regulations. Such guidelines shall, at a minimum, require the Financial Consultant or his/her agent to periodically inspect the progress of Seismic Strengthening and to disburse loan proceeds based on the level of completion.

(3) **Financial Consultant Fees.** The City may pay required fees to the Financial Consultant from the Bond Proceeds. (Added by Ord. 100-94, App. 3/11/94; amended by Ord. 237-96, App. 6/11/96)

SEC. 66A.18. LOAN SERVICING. (1) **Duties of Loan Servicer.** The Loan Servicer shall receive repayments of Seismic Safety Loans, account for all such repayments, and provide to the Program Administrator monthly statements of such accounts for each outstanding Seismic Safety Loan.

(2) **Loan Servicing Fees.** The City may pay required fees to the Loan servicer from the Bond Proceeds. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.19. BASE WAGES. Except in cases where prevailing wages are paid pursuant to Section 66A.20, all individuals performing work financed in whole or part by a Seismic Safety Loan shall be paid not less than \$9.00 per hour, excluding overhead and benefits. (Added by Ord. 100-94, App. 3/11/94; amended by Ord. 237-96, App. 6/11/96)

SEC. 66A.20. PREVAILING WAGES. In cases where the total loan package exceeds \$750,000, all individuals performing such work shall be paid not less than the highest general prevailing rate of wages as determined in accordance with Administrative Code Section 6.37 or other applicable City laws regarding the determination of prevailing wages. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.21. PROPERTY/LIABILITY INSURANCE. As a condition precedent to receipt of a Seismic Safety Loan, the Borrower shall maintain or cause to be maintained insurance in types and amounts determined by the City's Risk Manager and the Program Administrator. The Program Regulations shall include guidelines for such required insurance coverage, which may include but shall not be limited to general liability insurance, property insurance, and workers compensation coverage. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.22. HEALTH INSURANCE. Except in cases where prevailing wages are paid pursuant to Section 66A.20, construction contractors performing work financed in whole or part by a Seismic Safety Loan shall provide to their employees and their employees' dependents health coverage of a type and cost similar to that generally provided by a Health Maintenance Organization or Kaiser Hospitals, as will be more specifically described in the Program Regulations, until such time as a national health service plan applicable to such individuals is implemented by the federal government. Guidelines regarding the cost and type of health coverage required by this Section shall be specified in the Program Regulations. The cost for such coverage shall be borne solely by the contractor; provided that dependent coverage shall be offered to the employee under the Health Maintenance Organization's plan at the employee's expense. (Added by Ord. 100-94, App. 3/11/94; amended by Ord. 237-96, App. 6/11/96)

SEC. 66A.23. ECONOMICALLY DISADVANTAGED HIRE REQUIREMENT. (1) According to a program to be more fully described in the Program Regulations, in cases where the total principal amount of a Seismic Safety Loan is

equal to or greater than \$200,000, borrowers shall require that their contractors performing work financed in whole or part by a Seismic Safety Loan hire economically disadvantaged individuals to comprise no less than 25 percent of each contractor's total construction work force, measured in labor hours. For purposes of this Section 66A.23, an "economically disadvantaged individual" means an individual who earns no more than 25 percent of median income for the San Francisco Metropolitan Statistical Area, as determined by the United States Department of Housing and Urban Development from time to time. The Program Administrator will collaborate with a consortium of tax-exempt nonprofit community-based employment agencies, to be designated in the Program Regulations, to refer and place these economically disadvantaged persons.

(2) In cases where the total principal amount of a Seismic Safety Loan is less than \$200,000, it shall be a goal that 25 percent of the contractor's new hires be economically disadvantaged individuals, as defined above. (Added by Ord. 100-94, App. 3/11/94; amended by Ord. 237-96, App. 6/11/96)

SEC. 66A.24. MONITORING FOR COMPLIANCE WITH REGULATORY AGREEMENTS. The Mayor's Office of Housing or its successor shall be responsible for monitoring compliance with Regulatory Agreements. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.25. PROGRAM REVIEW. The Program Board shall review all aspects of the Program after one and one-half years after commencement of the Program to determine whether any amendments to this Chapter 66A, or any other applicable local laws, should be recommended to the Board of Supervisors for adoption. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.26. PROGRAM REGULATIONS. The Program Administrator shall develop Program Regulations to address the issues specified in this Chapter 66A and such other matters as deemed necessary by the Program Administrator for efficient administration of the Program. Such Program Regulations shall be subject to review and approval by the Chief Administrative Officer and the City Attorney's Office. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.27. PROGRAM MANAGEMENT. The Chief Administrative officer shall be responsible for management of the Program in accordance with these requirements. The Chief Administrative Officer shall appoint an individual to serve as the Program Administrator, who will be responsible for the day-to-day management of the Program. (Added by Ord. 100-94, App. 3/11/94)

SEC. 66A.28. AFFIRMATIVE ACTION. The City's affirmative action goals, as described in Administrative Code Section 12B.4, shall apply to contractors performing Seismic Strengthening under contracts with Borrowers under this Program. Compliance with those goals shall be monitored by the Chief Administrative Officer and the Program Administrator, as specified in Administrative Code Section 66A.27. (Added by Ord. 100-94, App. 3/11/94)



CHAPTER 67

THE SAN FRANCISCO SUNSHINE ORDINANCE

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ARTICLE I

IN GENERAL

SEC. 67.1. FINDINGS AND PURPOSE. The Board of Supervisors finds and declares:

(a) Government's duty is to serve the public, reaching its decisions in full view of the public.

(b) Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance will assure that their deliberations are conducted before the people and that City operations are open to the people's review.

(c) Although that is the intent also of California's Ralph M. Brown Act and Public Records Act, the people of California have learned from costly experience that every generation of governmental leaders includes officials who feel more comfortable conducting public business away from the scrutiny of those who elect and employ them. New civic issues and new governmental procedures also can erode the public's fundamental rights. Violations of open government principles occur at all levels, from local advisory boards to the highest reaches of the State hierarchy.

(d) It is time for San Francisco to reaffirm the plain purpose of the State's open government laws and to apply their underlying principles to local circumstances. No law is self-enforcing. Continued vigilance is essential. As government evolves, so must the laws designed to assure that the process remains visible.

(e) The people of San Francisco want an open society. They do not give their public servants the right to decide what they should know. The public's right to know is as fundamental as its right to vote. To act on truth, the people must be free to learn the truth.

(f) The sun must shine on all the workings of government so the people may put their institutions right when they go wrong. San Francisco enacts this ordinance to assure that, in general intent as well as in administrative procedure, the people of this City remain in control of the government they created. (Added by Ord. 265-93, App. 8/18/93)

SEC. 67.2. CITATION. This Chapter may be cited as the San Francisco Sunshine Ordinance. (Added by Ord. 265-93, App. 8/18/93)

ARTICLE II**PUBLIC ACCESS TO MEETINGS**

SEC. 67.3. DEFINITIONS. Whenever in this Article the following words or phrases are used, they shall mean:

(a) "City" shall mean the City and County of San Francisco.

(b) "Meeting" shall mean any of the following:

(1) A congregation of a majority of the members of a policy body at the same time and place;

(2) A series of gatherings, each of which involves less than a majority of a policy body, to hear, discuss or deliberate upon any item that is within the subject matter jurisdiction of the City, if the cumulative result is that a majority of members has become involved in such gatherings; or

(3) Any other use of personal intermediaries or communications media that could permit a majority of the members of a policy body to become aware of an item of business and of the views or positions of other members with respect thereto, and to negotiate consensus thereupon.

(4) "Meeting" shall not include any of the following:

(A) Individual contacts or conversations between a member of a policy body and a constituent which do not convey to the member the views or positions of other members upon the subject matter of the contact or conversation and in which the member does not solicit or encourage the restatement of the views of the other members,

(B) The attendance of a majority of the members of a policy body at a regional, statewide or national conference, or at a meeting organized to address a topic of local community concern and open to the public, provided that a majority of the members refrains from using the occasion to collectively discuss the topic of the gathering or any other business within the subject matter jurisdiction of the City, or

(C) The attendance of a majority of the members of a policy body at a purely social, recreational or ceremonial occasion other than one sponsored or organized by or for the policy body itself, provided that a majority of the members refrains from using the occasion to discuss any business within the subject matter jurisdiction of this body. A meal gathering of a policy body before, during or after a business meeting of the body is part of that meeting and shall be conducted only under circumstances that permit public access to hear and observe the discussion of members. Such meetings shall not be conducted in restaurants or other accommodations where public access is possible only in consideration of making a purchase or some other payment of value.

(D) The attendance of a majority of the members of a policy body at an open and noticed meeting of a standing committee of that body, provided that the members of the policy body who are not members of the standing committee attend only as observers.

(E) The proceedings of any committee having responsibility for the evaluation and improvement of the quality of medical care, mental services or any other type of health services provided by the City or City-funded providers, including but not limited to committees described in Evidence Code Sections 1156 et seq.,

(F) Proceedings of the Department of Social Services Child Welfare Placement and Review Committee or similar committees which exist to consider confidential information and make decisions regarding Department of Social Services clients.

(c) "Policy body" shall mean:

(1) The Board of Supervisors;

(2) Any other board or commission established by the Charter or by ordinance or resolution of the Board of Supervisors; or

(3) Any advisory commission, committee or body of the City, created by the initiative of a policy body;

(4) Any standing committee of a policy body irrespective of its composition.

A policy body shall not include a committee which consists solely of employees of the City and County of San Francisco. (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 129-98, App. 4/17/98)

SEC. 67.4. PASSIVE MEETINGS. (a) Gatherings as defined in Subdivision (5), which shall be known as "passive meetings," shall be accessible to individuals upon inquiry and to the extent possible consistent with the facilities in which they occur.

(1) Such gatherings need not be formally noticed, although the time, place and nature of the gathering shall be disclosed upon inquiry by a member of the public, and any agenda actually prepared for the gathering shall be accessible to such inquirers as a public record;

(2) Such gatherings need not be conducted in any particular space for the accommodation of spectators, although spectators shall be permitted to observe on a space-available basis consistent with legal and practical restrictions on occupancy;

(3) Such gatherings of a business nature need not provide opportunities for comment by spectators, although the person presiding may, in his or her discretion, entertain such questions or comments from spectators as may be relevant to the business of the gathering;

(4) Such gatherings of a social or ceremonial nature need not provide refreshments to spectators;

(5) Gatherings subject to this subsection are the following: Advisory committees created in writing by the initiative of a member of a policy body, the Mayor, or a department head and social, recreational or ceremonial occasions sponsored or organized by or for a policy body to which a majority of the body has been invited. This subsection shall not apply to a committee which consists solely of employees of the City and County of San Francisco;

(6) Gatherings defined in Subdivision (5) may hold closed sessions under any circumstances allowed by this Article or the Ralph M. Brown Act.

(b) To the extent not inconsistent with State or federal law, a policy body shall include in any contract with an entity that owns, operates or manages any property in which the City has or will have an ownership interest, including a mortgage, and on which the entity performs a government function related to the furtherance of health, safety or welfare, a requirement that any meeting of the governing board of the entity to address any matter relating to the property or its government related activities on the property, be conducted as provided in Subdivision (a) of this section. (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 287-96, App. 7/12/96)

SEC. 67.5. MEETINGS TO BE OPEN AND PUBLIC; APPLICATION OF BROWN ACT. All meetings of any policy body shall be open and public, and governed by the provisions of the Ralph M. Brown Act (Government Code Sections 54950 et seq.) and of this article. In case of inconsistent requirements under the Brown Act and this article, the requirement which would result in greater or more expedited public access shall apply. (Added by Ord. 265-93, App. 8/18/93)

SEC. 67.6. CONDUCT OF BUSINESS; TIME AND PLACE FOR MEETINGS. (a) Each policy body, except for advisory bodies, shall establish by resolution or motion the time and place for holding regular meetings.

(b) Unless otherwise required by State or federal law or necessary to inspect real property or personal property which cannot be conveniently brought within the territory of the City and County of San Francisco or to meet with residents residing on property owned by the City, or to meet with residents of another jurisdiction to discuss actions of the policy body that affect those residents, all meetings of its policy bodies shall be held within the City and County of San Francisco.

(c) If a regular meeting would otherwise fall on a holiday, it shall instead be held on the next business day.

(d) If, because of fire, flood, earthquake or other emergency, it would be unsafe to meet in the customary location, the meetings may be held for the duration of the emergency at some other place specified by the policy body. The change of meeting site shall be announced, by the most rapid means of communication available at the time, in a notice to the local media who have requested written notice of special meetings pursuant to Government Code Section 54956.

(e) Meetings of advisory bodies as specified in Section 66.3(c)(3) of this Article shall be preceded by notice delivered personally or by mail at least 24 hours before the time of such meeting to each person who has requested, in writing, notice of such meeting. If the advisory body elects to hold regular meetings, it shall provide by bylaws, or whatever other rule is utilized by that advisory body for the conduct of its business, for the time and place for holding such regular meetings. In such case, no notice of regular meetings, other than the posting of an agenda pursuant to Section 67.7 of this Article in the place used by the policy body or executive officer which it advises, is required.

(f) Special meetings of any policy body, including advisory bodies that choose to establish regular meeting times, may be called at any time by the presiding officer thereof or by a majority of the members thereof, by delivering personally or by mail written notice to each member of the board or commission and to each local newspaper, radio or television station requesting notice in writing.

Such notice must be delivered personally or by mail at least 24 hours before the time of such meeting as specified in the notice.

The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by the board or commission.

Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the secretary of the board or commission a written waiver of notice. Such waiver may be given by telegram.

Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

Each special meeting shall be held at the regular meeting place of the policy body except that the policy body may designate an alternate meeting place provided that such alternate location is specified in the call and notice of the special meeting; further provided that the call and notice of the special meeting shall be given at least 15 days prior to said special meeting being held at an alternate location. This provision shall not apply where the alternative meeting location is located within the same building as the regular meeting place. (Added by Ord. 265-93, App. 8/18/93)

SEC. 67.7. AGENDA REQUIREMENTS; REGULAR MEETINGS. (a) At least 72 hours before a regular meeting, a policy body shall post an agenda containing a meaningful description of each item of business to be transacted or discussed at the meeting.

(b) A description is meaningful if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item. The description should be brief, concise and written in plain, easily understood English. It may refer to explanatory documents, such as correspondence or reports, posted adjacent to the agenda or, if such documents are of more than one page in length, available for public inspection and copying at a stated location during normal office hours.

(c) The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public.

(d) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a policy body may respond to statements made or questions posed by persons exercising their public testimony rights, to the extent of asking a question for clarification, providing a reference to staff or other resources for factual information, or requesting staff to report back to the body at a subsequent meeting concerning the matter raised by such testimony.

(e) Notwithstanding Subdivision (d), the policy body may take action on items of business not appearing on the posted agenda under any of the following conditions:

(1) Upon a determination by a majority vote of the body that an accident, natural disaster or work force disruption poses a threat to public health and safety;

(2) Upon a good faith, reasonable determination by a $\frac{2}{3}$ vote of the body, or, if less than $\frac{2}{3}$ of the members are present, a unanimous vote of those members present, that (A) the need to take immediate action on the item is so imperative as to threaten serious injury to the public interest if action were deferred to a subsequent special or regular meeting, or relates to a purely commendatory action, and (B) that the need for such action came to the attention of the body subsequent to the agenda being posted as specified in Subdivision (a);

(3) The item was posted pursuant to Subdivision (a) for a prior meeting of the body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(f) Each board and commission enumerated in the Charter shall ensure that agendas for each regular and special meeting are made available to speech- and hearing-impaired persons through telecommunications devices for the deaf, telecommunications relay services or equivalent systems, and, upon request, to sight-impaired persons through Braille or enlarged type.

(g) Each policy body shall ensure that agendas for each regular and special meeting shall include the following notice:

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, board, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE.

(Added by Ord. 265-93, App. 8/18/93; amended by Ord. 292-95, App. 9/8/95; Ord. 185-96, App. 5/8/96)

SEC. 67.7-1. PUBLIC NOTICE REQUIREMENTS. (a) Any public notice that is mailed, posted or published by a City department, board, agency, or commission to residents residing within a specific area to inform those residents of a matter that may impact their property or that neighborhood area, shall be brief, concise and written in plain, easily understood English.

(b) The notice should inform the residents of the proposal or planned activity, the length of time planned for the activity, the effect of the proposal or activity, and a telephone contact for residents who have questions.

(c) If the notice informs the public of a public meeting or hearing, then the notice shall state that persons who are unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing, that these comments will be made a part of the official public record, and that the comments will be brought to the attention of the person or persons conducting the public meeting or hearing. The notice should also state the name and address of the person or persons to whom those written comments should be submitted. (Added by Ord. 185-96, App. 5/8/96)

SEC. 67.8. AGENDA DISCLOSURES: CLOSED SESSIONS. (a) In addition to the brief general description of items to be discussed or acted upon in open and public session, the agenda posted pursuant to Government Code Section 54954.2, any mailed notice given pursuant to Government Code Section 54954.1, and any call and notice delivered to the local media and posted pursuant to Government Code Section 54956 shall specify and disclose the nature of any closed sessions by providing all of the following information:



(1) With respect to a closed session held pursuant to Government Code Section 54956.7:

LICENSE/PERMIT DETERMINATION

____ applicant(s)

The space shall be used to specify the number of persons whose applications are to be reviewed;

(2) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Property:

____ Person(s) negotiating:

____ Under negotiation:

Price ____ Terms of payment ____ Both ____

The space under "Property" shall be used to list an address or other description or name which permits a reasonably ready identification of each parcel or structure subject to negotiation. The space under "Person(s) negotiating" shall be used to identify the person or persons with whom negotiations concerning that property are in progress. The spaces under "Under negotiation" shall be checked off as applicable to indicate which issues are to be discussed;

(3) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54956.9, either:

CONFERENCE WITH LEGAL COUNSEL

Existing litigation:

____ Unspecified to protect service of process

____ Unspecified to protect settlement posture

or:

CONFERENCE WITH LEGAL COUNSEL

Anticipated litigation:

____ As defendant ____ As plaintiff

The space under "Existing litigation" shall be used to specifically identify a case under discussion pursuant to Subdivision (a) of Government Code Section 54956.9, unless the identification would jeopardize the City's ability to effectuate service of process upon one or more unserved parties, in which instance the space in the next succeeding line shall be checked, or unless the identification would jeopardize the City's ability to conclude existing settlement negotiations to its advantage, in which instance the space in the next succeeding line shall be checked. If the closed session is called pursuant to Subdivision (b) or (c) of Section 54956.9, the appropriate space shall be checked under "Anticipated litigation" to indicate the City's anticipated position as defendant or plaintiff respectively. If more than one instance of anticipated

litigation is to be reviewed, space may be saved by entering the number of separate instances in the "As defendant" or "As plaintiff" spaces or both as appropriate. The disclosure required by this section for anticipated litigation shall not apply to boards and commissions whose closed sessions are governed by Charter Section 3.500(f), except for the Board of Supervisors, unless and until a charter amendment is adopted repealing the provisions of that section relating to closed sessions;

(4) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54957, either:

THREAT TO PUBLIC SERVICES OR FACILITIES

Name, title and agency of law enforcement officer(s) to be conferred with:

or:

PUBLIC EMPLOYEE APPOINTMENT/HIRING

Title/description of position(s) to be filled:

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Position and, in the case of a routine evaluation, name of employee(s) being evaluated:

or:

PUBLIC EMPLOYEE DISMISSAL

Number of employees affected:

or;

(5) With respect to every item of business to be discussed in closed session pursuant to Government Code Section 54957.6, either:

CONFERENCE WITH NEGOTIATOR—COLLECTIVE BARGAINING

Name and title of City's negotiator:

Organization(s) representing:

☐ Police officers, firefighters and airport police

☐ Transit Workers

☐ Nurses

☐ Miscellaneous Employees

Anticipated issue(s) under negotiation:

☐ Wages

☐ Hours

☐ Benefits

☐ Working Conditions

☐ Other (specify if known)

All

Where renegotiating a memorandum of understanding or negotiating a successor memorandum of understanding, the name of the memorandum of understanding:

In case of multiple items of business under the same category, lines may be added and the location of information may be reformatted to eliminate unnecessary duplication and space, so long as the relationship of information concerning the same item is reasonably clear to the reader. As an alternative to the inclusion of lengthy lists of names or other information in the agenda, or as a means of adding items to an earlier completed agenda, the agenda may incorporate by reference separately prepared documents containing the required information, so long as copies of those documents are posted adjacent to the agenda within the time periods required by Government Code Sections 54954.2 and 54956 and provided with any mailed or delivered notices required by Sections 54954.1 or 54956. (Added by Ord. 265-93, App. 8/18/93)

SEC. 67.9. AGENDAS AND RELATED MATERIALS: PUBLIC RECORDS. (a) Agendas of meetings and any other documents on file with the clerk of the policy body, when intended for distribution to all, or a majority of all, of the members of a policy body in connection with a matter anticipated for discussion or consideration at a public meeting shall be made available to the public. However, this disclosure need not include any material exempt from public disclosure under Government Code Sections 6253.5, 6254, or 6254.7.

(b) Records which are subject to disclosure under Subdivision (a) and which are intended for distribution to the body prior to commencement of a public meeting shall be made available for public inspection and copying upon request prior to commencement of such meeting, whether or not actually distributing to or received by the body at the time of the request.

(c) Records which are subject to disclosure under Subdivision (a) and which are distributed during a public meeting but prior to commencement of their discussion shall be made available for public inspection prior to commencement of, and during, their discussion.

(d) Records which are subject to disclosure under Subdivision (a) and which are distributed during their discussion at a public meeting shall be made available for public inspection immediately or as soon thereafter as is practicable.

(e) A policy body may charge a duplication fee of one cent per page for a copy of a public record prepared for consideration at a public meeting, unless a special fee has been established pursuant to the procedure set forth in Section 67.29(d). Neither this Section nor the California Public Records Act (Government Code Sections 6250 et seq.) shall be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, whether or not distributed to a policy body. (Added by Ord. 265-93, App. 8/18/93)

SEC. 67.10. CLOSED SESSIONS: PUBLIC FACILITIES AND EMPLOYEES. A policy body may hold closed session:

(a) With the Attorney General, District Attorney, Sheriff, or Chief of Police, or their respective deputies, on matters posing a threat to the security of public

buildings or a threat to the public's right of access to public services or public facilities;

(b) To consider the appointment, employment, evaluation of performance, or dismissal of a City employee, if the policy body has the authority to appoint, employ, or dismiss the employee, or to hear complaints or charges brought against the employee by another person or employee unless the employee complained of requests a public hearing. The body may exclude from any such public meeting, and shall exclude from any such closed meeting, during the comments of a complainant, any or all other complainants in the matter. The term "employee" shall not include any elected official, member of a policy body or applicant for such a position, or person providing services to the City as an independent contractor or the employee thereof, including but not limited to independent attorneys or law firms providing legal services to the City for a fee rather than a salary;

(c) Notwithstanding Subsection (b), an Executive Compensation Committee established under Memorandum of Understanding with the Municipal Executives Association may meet in closed session when evaluating the performance of an individual officer or employee subject to that Memorandum of Understanding or when establishing performance goals for such an officer or employee where the setting of such goals requires discussion of that individual's performance.

(d) This section shall not apply to boards and commissions whose closed sessions are governed by Charter Section 3.500(f), except for the Board of Supervisors, unless and until a Charter amendment is adopted repealing the provisions of that section relating to closed sessions. (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 37-98; App. 1/23/98)

SEC. 67.11. CLOSED SESSIONS: PENDING LITIGATION. (a) A policy body, based on advice of its legal counsel, and on a motion and vote in open session to assert the attorney-client privilege, may hold a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the City in that litigation.

(b) Litigation shall be considered pending when any of the following circumstances exist:

(1) An adjudicatory proceeding before a court, administrative body exercising its adjudicatory authority, hearing officer or arbitrator, to which the City is a party, has been initiated formally,

(2) A point has been reached where, in the opinion of the policy body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the City, or the body is meeting only to decide whether a closed session is authorized pursuant to that advice or, based on those facts and circumstances, the body has decided to initiate or is deciding whether to initiate litigation.

(c) A closed session may not be held under this section to consider the qualifications or engagement of an independent contract attorney or law firm, for litigation services or otherwise.

(d) Prior to holding a closed session pursuant to this section, the policy body shall disclose the justification for its closure either by entries in the appropriate categories on the agenda or, in the case of an item added to the agenda based on a

finding of necessity and urgency, by an oral announcement specifying the same information.

(e) This section shall not apply to boards and commissions whose closed sessions are governed by Charter Section 3.550(f), except for the Board of Supervisors, unless and until a charter amendment is adopted repealing the provisions of that section relating to closed sessions. (Added by Ord. 265-93, App. 8/18/93)



SEC. 67.12. CLOSED SESSIONS: EMPLOYEE SALARIES AND BENEFITS. (a) A policy body with authority over matters within the scope of collective bargaining or meeting and conferring with public employee organizations may hold closed sessions with the City's designated representatives regarding such matters. Closed sessions shall be for the purpose of reviewing the City's position and instructing its designated representatives and may take place solely prior to and during active consultations and discussions between the City's designated representatives and the representatives of employee organizations or the unrepresented employees. A policy body shall not discuss compensation or other contractual matters in closed session with one or more employees directly interested in the outcome of the negotiations.

(b) In addition to the closed sessions authorized by Subdivision (a), a policy body subject to Government Code Section 3501 may hold closed sessions with its designated representatives on mandatory subjects within the scope of representation of its represented employees, as determined pursuant to Section 3504. (Added by Ord. 265-93, App. 8/18/93)

SEC. 67.13. STATEMENT OF REASONS FOR CLOSED SESSIONS. Prior to any closed session, a policy body shall state the general reason or reasons for the closed session, and may cite the statutory authority, including the specific section and subdivision, or other legal authority under which the session is being held. In the closed session, the policy body may consider only those matters covered in its statement. In the case of regular and special meetings, the statement shall be made in the form of the agenda disclosures and specifications required by Section 67.8 of this article. In the case of adjourned and continued meetings, the statement shall be made with the same disclosures and specifications required by Section 67.8 of this article, as part of the notice provided for the meeting. In the case of an item added to the agenda as a matter of urgent necessity, the statement shall be made prior to the determination of urgency and with the same disclosures and specifications as if the item had been included in the agenda pursuant to Section 67.8 of this article. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law. (Added by Ord. 265-93, App. 8/18/93)

SEC. 67.14. DISCLOSURE OF CLOSED SESSION DISCUSSIONS AND ACTIONS. (a) After every closed session, a policy body may in its discretion and in the public interest, disclose to the public any portion of its discussion which is not confidential under federal or state law, the Charter, or nonwaivable privilege. The body shall, by motion and vote in open session, elect either to disclose no information or to disclose the information which a majority deems to be in the public interest. The disclosure shall be made through the presiding officer of the body or such other person, present in the closed session, whom he or she designates to convey the information.

(b) A policy body shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

(1) **Real Property Negotiations:** Approval given to the body's negotiator concerning real estate negotiations pursuant to Government Code Section 54956.8 shall be reported as soon as the agreement is final. If its own approval renders the agreement final, the body shall report that approval, the substance of the agreement

and the vote thereon in open session immediately. If final approval rests with the other party to the negotiations, the body shall disclose the fact of that approval, the substance of the agreement and the body's vote or votes thereon upon inquiry by any person, as soon as the other party or its agent has informed the body of its approval. If notwithstanding the final approval there are conditions precedent to the final consummation of the transaction, or there are multiple contiguous or closely located properties that are being considered for acquisition, the document referred to in Subdivision (b) of this section need not be disclosed until the condition has been satisfied or the agreement has been reached with respect to all the properties, or both;

(2) **Litigation:** Direction or approval given to the body's legal counsel to prosecute, defend or seek or refrain from seeking appellate review or relief, or to otherwise enter as a party, intervenor or amicus curiae in any form of litigation as the result of a consultation under Government Code Section 54956.9 shall be reported in open session as soon as given, or at the first meeting after an adverse party has been served in the matter if immediate disclosure of the City's intentions would be contrary to the public interest. The report shall identify the adverse party or parties, any co-parties with the City, any existing claim or order to be defended against or any factual circumstances or contractual dispute giving rise to the City's complaint, petition or other litigation initiative. This section shall not apply to boards and commissions whose closed sessions are governed by Charter Section 3.500(f), except for the Board of Supervisors, unless and until a charter amendment is adopted repealing the provisions of that section relating to closed sessions;

(3) **Settlement:** A policy body shall neither solicit nor agree to any term in a settlement which would preclude the release, upon request by the public, of the text of the settlement itself and any related documentation communicated to or received from the adverse party or parties. Where the disclosure of documents in a litigation matter that has been settled could affect litigation on a closely related case, the documents required to be disclosed by Subdivision (b) of this section need not be disclosed until the closely related case is settled or otherwise finally concluded. This section shall not be applicable to the Airports Commission, the Port Commission or the Public Utilities Commission;

(4) **Employee Actions:** Action taken to appoint, employ, dismiss, transfer or accept the resignation of a public employee in closed session pursuant to Government Code Section 54957 shall be reported immediately in a manner that names the employee, the action taken and position affected and, in the case of dismissal for a violation of law or of the policy of the City, the reason for dismissal. "Dismissal" within the meaning of this ordinance includes any termination of employment at the will of the employer rather than of the employee, however characterized. The proposed terms of any separation agreement shall be immediately disclosed as soon as presented to the body, and its final terms shall be immediately disclose upon approval by the body. Except for information required to be disclosed by the Ralph M. Brown Act, this section shall not apply to boards and commissions whose closed sessions are governed by Charter Section 3.500(f), except for the Board of Supervisors, unless and until a charter amendment is adopted repealing the provisions of that section relating to closed sessions.

(c) Reports required to be made immediately may be made orally or in writing, but shall be supported by copies of any contracts, settlement agreements, or other documents related to the transaction that were finally approved or adopted in the

closed session and that embody the information required to be disclosed by immediate report, provided to any person who requested such copies in a written request submitted within 24 hours of the posting of the agenda, or who has made a standing request for all such documentation as part of a request for notice of meetings pursuant to Government Code Sections 54954.1 or 54956.

(d) A written summary of the information required to be immediately reported pursuant to this Section, or documents embodying that information, shall be posted by the close of business on the next business day following the meeting, in the place where the meeting agendas of the body are posted. (Added by Ord. 265-93, App. 8/18/93)

SEC. 67.15. BARRIERS TO ATTENDANCE PROHIBITED. (a) No policy body shall conduct any meeting, conference or other function in any facility that excludes persons on the basis of actual or presumed class identity or characteristics, or which is inaccessible to persons with physical disabilities, or where members of the public may not be present without making a payment or purchase. Whenever the Board of Supervisors, or a board or commission enumerated in the Charter, or a permanent subquorum committee of the governing board or commission anticipates that the number of persons attending the meeting will exceed the legal capacity of the meeting room, any public address system used to amplify sound in the meeting room shall be extended by supplementary speakers to permit the overflow audience to listen to the proceedings in an adjacent room or passageway, unless such supplementary speakers would disrupt the operation of a City office.

(b) Each board and commission enumerated in the Charter shall provide sign language interpreters or notetakers at each regular meeting, providing that a request for such services is communicated to the secretary to the board or commission at least 48 hours before the meeting, except for Monday meetings, for which the deadline shall be 4:00 p.m. of the last business day of the preceding week.

(c) Each board and commission enumerated in the Charter shall ensure that accessible seating for persons with disabilities, including those using wheelchairs, is made available for each regular and special meeting.

(d) Each board and commission enumerated in the Charter shall include on the agenda for each general and special meeting the following statement: "In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals." (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 292-95, App. 9/8/95; Ord. 482-96, App. 12/20/96)

SEC. 67.16. TAPE RECORDING, FILMING AND STILL PHOTOGRAPHY. (a) Any person attending an open and public meeting of a policy body shall have the right to record the proceedings with an audio or video tape recorder or a still or motion picture camera, or to broadcast the proceedings, in the absence of a reasonable finding of the policy body that the recording or broadcast cannot continue without such noise, illumination or obstruction of view as to constitute a persistent disruption of the proceedings.

(b) Each board and commission enumerated in the Charter shall tape record each regular and special meeting. Each such tape recording, and any audio or video

tape recording of a meeting of any other policy body made at the direction of the policy body shall be a public record subject to inspection pursuant to the California Public Records Act (Government Code Section 6250 et seq.), and shall not be erased or destroyed for at least seven calendar days, provided that if during that seven-day period a written request for inspection or copying of that record is made, the tape shall not be destroyed or erased until the requested inspection or copying has been accomplished. Inspection of any such video or tape recording shall be provided without charge on a tape recorder made available by the City. (Added by Ord. 265-93, App. 8/18/93)

SEC. 67.17. PUBLIC TESTIMONY AT REGULAR AND CERTAIN SPECIAL MEETINGS. (a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address a policy body on items of interest to the public that are within policy body's subject matter jurisdiction, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by Section 67.7(e) of this Article. However, in the case of a meeting of the Board of Supervisors, the agenda need not provide an opportunity for members of the public to address the Board on any item that has already been considered by a committee, composed exclusively of members of the Board, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the Board.

(b) Every agenda for special meetings at which action is proposed to be taken on an item shall provide an opportunity for each member of the public to directly address the body concerning that item prior to action thereupon.

(c) A policy body may adopt reasonable regulations to ensure that the intent of Subdivisions (a) and (b) are carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. Each policy body shall adopt a rule providing that each person wishing to speak on an item before the body at a regular or special meeting shall be permitted to be heard once for up to three minutes.

(d) A policy body shall not abridge or prohibit public criticism of the policy, procedures, programs or services of the City, or of any other aspect of its proposals or activities, or of the acts or omissions of the body, on the basis that the performance of one or more public employees is implicated, or on any basis other than reasonable time constraints adopted in regulations pursuant to Subdivision (c) of this Section. (Added by Ord. 265-93, App. 8/18/93)

SEC. 67.18. MINUTES. The Clerk of the Board of Supervisors and the clerk of each board and commission enumerated in the Charter shall record the minutes for each regular and special meeting of the board or commission. The minutes shall state the time the meeting was called to order, the names of the members attending the meeting, the roll call vote on each matter considered at the meeting, the time the board or commission began and ended any closed session, a list of those members of the public who spoke on each matter if the speakers identified themselves, whether such speakers supported or opposed the matter and the time the meeting was ad-



journed. The draft minutes of each meeting shall be available for inspection and copying upon request no later than 10 working days after the meeting. The officially adopted minutes shall be available for inspection and copying upon request no later than 10 working days after the meeting at which the minutes are adopted. Upon request, minutes required to be produced by this Section shall be made available in Braille or increased type size. (Added by Ord. 265-93, App. 8/18/93)

SEC. 67.19. PUBLIC COMMENT BY MEMBERS OF POLICY BODIES. Every member of a policy body retains the full constitutional rights of a citizen to comment publicly on the wisdom or propriety of government actions, including those of the policy body of which he or she is a member. Policy bodies shall not sanction, reprove or deprive members of their rights as elected or appointed officials for expressing their judgments or opinions, including those which deal with the perceived inconsistency of nonpublic discussions, communications or actions with the requirements of State or federal law or of this ordinance. The release of specific factual information made confidential by State or federal law including, but not limited to, the privilege for confidential attorney-client communications, may be the basis for a request for injunctive or declaratory relief, of a complaint to the Mayor seeking an accusation of misconduct, or both. (Added by Ord. 265-93, App. 8/18/93)

ARTICLE III

PUBLIC INFORMATION

SEC. 67.20. DEFINITIONS. Whenever in this Article the following words or phrases are used, they shall mean:

(a) "Department" shall mean a department of the City and County of San Francisco.

(b) "Public information" shall mean the content of "public records" as defined in the California Public Records Act (Government Code Section 6252), whether provided in documentary form or in an oral communication. "Public information" shall not include "computer software" developed by the City and County of San Francisco as defined in the California Public Records Act (Government Code Section 6254.9). (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 375-96, App. 9/30/96)

SEC. 67.21. RELEASE OF DOCUMENTARY PUBLIC INFORMATION. (a) Release of documentary public information, whether for inspection of the original or by providing a copy, shall be governed by the California Public Records Act (Government Code Section 6250 et seq.) in any particulars not addressed by this Article.

(b) Inspection and copying of documentary public information stored in electronic form shall be made available to the person requesting the information in any form requested which is available to the department, its officers or employees, including disk, tape, printout or monitor at a charge no greater than the cost of the media on which it is duplicated, plus the direct costs of equipment, supplies and labor costs associated with duplicating the electronic file which is requested. Inspection of documentary public information on a computer monitor need not be allowed where

the information sought is intertwined with information not subject to disclosure under the California Public Records Act and this ordinance. Nothing in this Section shall require a department to program or reprogram a computer to respond to a request for information or to release information where the release of that information would violate a licensing agreement or copyright law.

(c) It is the policy of the City and County of San Francisco to utilize computer technology in order to reduce the cost of public records management, including the costs of collecting, maintaining, and disclosing records subject to disclosure to members of the public under this Section. To the extent that it is technologically and economically feasible, departments that use computer systems to collect and store public records shall program and design these systems to ensure convenient, efficient, and economical public access to records.

(d) Departments purchasing new computer systems shall attempt to reach the following goals as a means to achieve lower costs to the public in connection with the public disclosure of records:

(1) Implementing a computer system in which exempt information is segregated or filed separately from otherwise disclosable information;

(2) Implementing a system that permits reproduction of electronic copies of records in a format that is generally recognized as an industry standard format;

(3) Implementing a system that permits making records available through the largest nonprofit, nonproprietary public computer network, consistent with the requirement for security of information. (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 253-96, App. 6/19/96)

SEC. 67.22. RELEASE OF ORAL PUBLIC INFORMATION. Release of oral public information shall be accomplished as follows:

(a) Every department head shall designate a person or persons knowledgeable about the affairs of the department, to provide information, including oral information, to the public about the department's operations, plans, policies and positions. The department head may designate himself or herself for this assignment, but in any event shall arrange that an alternate be available for this function during the absence of the person assigned primary responsibility. If a department has multiple bureaus or divisions, the department may designate a person or persons for each bureau or division to provide this information.

(b) The role of the person or persons so designated shall be to provide information on as timely and responsive a basis as possible to those members of the public who are not requesting information from a specific person. This Section shall not be interpreted to curtail existing informal contacts between employees and members of the public when these contacts are occasional, acceptable to the employee and the department, not disruptive of his or her operational duties and confined to accurate information not confidential by law.

(c) No employee shall be required to respond to an inquiry or inquiries from an individual if it would take the employee more than 15 minutes to obtain the information responsive to the inquiry or inquiries.

(d) Public employees shall not be discouraged from or disciplined for the expression of their personal opinions on any matter of public concern while not on duty, so long as the opinion (1) is not represented as that of the department and does not misrepresent the department position; and (2) does not disrupt coworker relations,

impair discipline or control by superiors, erode a close working relationship premised on personal loyalty and confidentiality, interfere with the employee's performance of his or her duties or obstruct the routine operation of the office in a manner that outweighs the employee's interests in expressing that opinion. In adopting this subdivision, the Board of Supervisors intends merely to restate and affirm court decisions recognizing the First Amendment rights enjoyed by public employees. Nothing in this Section shall be construed to provide rights to City employees beyond those recognized by courts, now or in the future, under the First Amendment, or to create any new private cause of action or defense to disciplinary action. (Added by Ord. 265-93, App. 8/18/93)

SEC. 67.23. PUBLIC REVIEW FILE—POLICY BODY COMMUNICATIONS. (a) The Clerk of the Board of Supervisors and the clerk of each board and commission enumerated in the Charter shall maintain a file, accessible to any person during normal office hours, containing a copy of any letter, memorandum or other communication which the clerk has distributed to or received from a quorum of the policy body concerning a matter calendared by the body within the previous 30 days or likely to be calendared within the next 30 days, irrespective of subject matter, origin or recipient, except commercial solicitations, periodical publications or communications exempt from disclosure under the California Public Records Act



(Government Code Section 6250 et seq.) and not deemed disclosable under Section 67.24 of this Article.

(b) Communications, as described in Subsection (a), sent or received in the last three business days shall be maintained in chronological order in the office of the department head or at a place nearby, clearly designated to the public. After documents have been on file for two full days, they may be removed, and, in the discretion of the board or commission, placed in a monthly chronological file.

(c) Multiple-page reports, studies or analyses which are accompanied by a letter or memorandum of transmittal need not be included in the file so long as the letter or memorandum of transmittal is included. (Added by Ord. 265-93, App. 8/18/93)

SEC. 67.24. NONEXEMPT PUBLIC INFORMATION. Notwithstanding the department's legal discretion to withhold certain information under the California Public Records Act, the following policies shall govern specific types of documents and information:

(a) Drafts and Memoranda.

(1) Except as provided in Subparagraph (2), no preliminary draft or department memorandum shall be exempt from disclosure under Government Code Section 6254, Subdivision (a) if it is normally kept on file. If it is not normally kept on file and would otherwise be disposed of, its factual content is not exempt under Subdivision (a). Only the recommendation of the author may, in such circumstances, be withheld as exempt;

(2) Draft versions of an agreement being negotiated by representatives of the City with some other party need not be disclosed immediately upon creation but must be preserved and made available for public review for 10 days prior to the presentation of the agreement for approval by a policy body, unless the body finds that and articulates how the public interest would be harmed by compliance with this 10-day rule, provided that policy body as used in this subdivision does not include committees. In the case of negotiations for a contract, lease or other business agreement in which an agency of the City is offering to provide facilities or services in direct competition with other public or private entities that are not required by law to make their competing proposals public, the policy body may postpone public access to the final draft agreement until it is presented to it for approval. Earlier versions and/or drafts of agreements shall not be subject to disclosure if the public interest in withholding such records clearly outweighs the public interest in disclosure as provided by California Government Code Section 6254(a).

(b) Litigation Material.

(1) No pre-litigation claim against the City, or any other record previously received or created by a department in the ordinary course of business, shall be exempt from disclosure under Government Code Section 6254, Subdivision (b);

(2) Unless otherwise privileged under California law, when litigation is finally adjudicated or otherwise settled, records of all communications between the department and the adverse party shall be subject to disclosure, including the text and terms of any settlement.

(c) **Personnel Information.** None of the following shall be exempt from disclosure under Government Code Section 6254, Subdivision (c):

(1) The job pool characteristics and employment and education histories of all successful job applicants, including at a minimum the following information as to each successful job applicant:

- (i) Sex, age and ethnic group,
- (ii) Years of graduate and undergraduate study, degrees(s) and major or discipline,
- (iii) Years of employment in the private and/or public sector,
- (iv) Whether currently employed in the same position for another public agency,
- (v) Other nonidentifying particulars as to experience, credentials, aptitudes, training or education entered in or attached to a standard employment application form used for the position in question.

(2) The professional biography or curriculum vitae of any employee, provided that the home address, home telephone number, social security number, age, and marital status of the employee shall be redacted;

- (3) The job description of every employment classification;
- (4) The exact gross salary and City-paid benefits available to every employee;
- (5) Any memorandum of understanding between the City or department and a recognized employee organization.

(d) **Law Enforcement Information.** No records pertaining to any investigation, arrest or other law enforcement activity shall be exempt from disclosure under Government Code Section 6254, Subdivision (f) beyond the point where the prospect of any enforcement action has been terminated by either a court or a prosecutor. When such a point has been reached, related records of law enforcement activity shall be accessible, except that individual items of information in the following categories may be withheld: the names of witnesses (whose distinct identities may be indicated by substituting an alphabetical letter for each individual interviewed); personal and otherwise private information unrelated to the reasons for which the law enforcement action was commenced or terminated; the identity of a confidential source; secret investigative techniques or procedures; or information whose disclosure would endanger law enforcement personnel. The subdivision shall not exempt from disclosure any portion of any record of a concluded inspection or enforcement action by an officer or department responsible for regulatory protection of the public health, safety or welfare.

(e) **Contracts, Bids and Proposals.** (1) Contracts, contractors' bids, responses to requests for proposals and all other records of communications between the department and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. All bidders and contractors shall be advised that information provided which is covered by this subdivision will be made available to the public upon request.

(2) Notwithstanding the provisions of this subdivision or any other provision of this ordinance, the Director of Public Health may withhold from disclosure proposed and final rates of payment for managed health care contracts if the Director determines that public disclosure would adversely affect the ability of the City to engage in effective negotiations for managed health care contracts. The authority to withhold this information applies only to contracts pursuant to which the City (through

the Department of Public Health) either pays for health care services or receives compensation for providing such services, including mental health and substance abuse services, to covered beneficiaries through a pre-arranged rate of payment. This provision also applies to rates for managed health care contracts for the University of California, San Francisco, if the contract involves beneficiaries who receive services provided jointly by the City and university. This provision shall not authorize the Director to withhold rate information from disclosure for more than three years.

(f) **Budgets and Other Financial Information.** Budgets, whether tentative, proposed or adopted, for the City or any of its departments, programs, projects or other categories, and all bills, claims, invoices, vouchers or other records of payment obligations as well as records of actual disbursements showing the amount paid, the payee and the purpose for which payment is made, other than payments for social or other services whose records are confidential by law, shall not be exempt from disclosure under any circumstances. (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 292-95, App. 9/8/95; Ord. 240-98, App. 7/17/98)

SEC. 67.25. IMMEDIACY OF RESPONSE. (a) Notwithstanding the 10-day period for response to a request permitted in Government Code Section 6256, a written request for information described in any category of nonexempt public information in Section 67.24 of this Article which shall be satisfied no later than the close of business on the day following the day of the request. This deadline shall apply only if the words "Immediate Disclosure Request" are written across the top of the request and the envelope in which the request is transmitted. These deadlines are appropriate for more extensive or demanding requests, but shall not be used to delay fulfilling a simple, routine or otherwise readily answerable request.

(b) If the voluminous nature of the information requested, its location in a remote storage facility or the need to consult with another interested department warrants an extension of 10 days as provided in Government Code Section 6456.1, the requester shall be notified as required by the close of business on the business day following the request.

(c) The person seeking the information need not state his or her reason for making the request or the use to which the information will be put, and shall not be routinely asked to make such a disclosure. Where a record being requested contains information most of which is exempt from disclosure under the California Public Records Act and this Article, however, the City Attorney may inform the requester of the nature and extent of the nonexempt information and inquire as to the requester's purpose for seeking it, in order to suggest alternative sources for the information which may involve less redaction or to otherwise prepare a response to the request. (Added by Ord. 265-93, App. 8/18/93)

SEC. 67.26. MINIMUM WITHHOLDING. No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure under express provisions of the California Public Records Act or of some other statute. Information that is exempt from disclosure shall be masked, deleted or otherwise segregated in order that the nonexempt portion of a requested record may be released, and keyed by footnote or other clear reference to the appropriate justification for withholding required by Section 67.28 of this Article. This work shall be done personally by the attorney or other staff member conducting the exemption review.

If that employee's work in redaction and footnoting exceeds one hour, the requester may be required to pay that extra increment of time at the pro rata hourly salary rate of the employee. Staff time used to locate or collect records for review or copying shall not be included as chargeable. (Added by Ord. 265-93, App. 8/18/93)

SEC. 67.27. JUSTIFICATION OF WITHHOLDING. Any withholding of information shall be justified, in writing, as follows:

(a) A withholding under a permissive exemption in the California Public Records Act or elsewhere shall cite that authority and explain in factual terms how the public interest would be harmed by disclosure.

(b) A withholding on the basis that disclosure is prohibited by law shall cite the statutory authority in the Public Records Act or elsewhere.

(c) A withholding on the basis that disclosure would incur civil or criminal liability shall cite any statutory or case law, or any other public agency's litigation experience, supporting that position. (Added by Ord. 265-93, App. 8/18/93)

SEC. 67.28. FEES FOR DUPLICATION. (a) No fee shall be charged for making public records available for review.

(b) For documents routinely produced in multiple copies for distribution, e.g., meeting agendas and related materials, unless a special fee has been established pursuant to Subdivision (d) of this Section, a fee not to exceed one cent per page may be charged, plus any postage costs.

(c) For documents assembled and copied to the order of the requester, unless a special fee has been established pursuant to Subdivision (d) of this Section, a fee not to exceed 10 cents per page may be charged, plus any postage.

(d) A department may establish and charge a higher fee than the one cent presumptive fee in Subdivision (b) and the 10 cent presumptive fee in Subdivision (c) if it prepares and posts an itemized cost analysis establishing that its cost per page impression exceeds 10 cents or one cent, as the case may be. The cost per page impression shall include the following costs: one sheet of paper; one duplication cycle of the copying machine in terms of toner and other specifically identified operation or maintenance factors, excluding electrical power; and one unit of operator labor calculated as the average hourly pay, excluding benefits, of the employee classification normally assigned to copy records, divided by 60, divided by the average number of copies per minute produced by the machines used in the department. Any such cost analysis shall identify the employee classification used for the labor component and the manufacturer, model, vendor and maintenance contractor, if any, of the copying machine or machines referred to. (Added by Ord. 265-93, App. 8/18/93)

SEC. 67.29. INDEX TO RECORDS. Each department may cooperate with any voluntary effort by an interested and competent individual or organization to compile a master index to the types of records it maintains, including those it creates and those it receives in the ordinary course of business. The index shall be for the use of City officials, staff and the general public, and shall be organized to permit a general understanding of the types of information maintained, by which officials and departments, for which purposes and for what periods of retention, and under what manner of organization for accessing, e.g., by reference to a name, a date, a proceeding or project, or some other referencing system. The index need not be in

such detail as to identify files or records concerning a specific person, transaction or other event, but shall clearly indicate where and how records of that type are kept. Any such master index shall be reviewed by appropriate staff for accuracy and presented for formal adoption to the administrative official or policy body responsible for the indexed records. Any changes in the department's practices or procedures that would affect the accuracy of the index shall thereafter be reported by the responsible staff to the board, commission, or elective officer, as the case may be, as the basis for a corresponding revision of the index. (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 287-96, App. 7/12/96)

ARTICLE IV

POLICY IMPLEMENTATION

SEC. 67.30. THE SUNSHINE ORDINANCE TASK FORCE. (a) There is hereby established a task force to be known as the Sunshine Ordinance Task Force consisting of thirteen voting members appointed by the Board of Supervisors. Two members shall be appointed from individuals whose names have been submitted by the local chapter of the Society of Professional Journalists, one of whom shall be an attorney and one of whom shall be a local journalist. One member shall be appointed from the press or electronic media who has an interest in the issues of citizen access and participation in local government. One member shall be appointed from individuals whose names have been submitted by the local chapter of the League of Women Voters. One member shall be a journalist from the minority press or electronic media. Six members shall be members of the public who have demonstrated interest in or have experience in the issues of citizen access and participation in local government. Two members shall be members of the public experienced in consumer advocacy. At all times the Task Force shall include at least one member who shall be a member of the public who is disabled and who has demonstrated interest in citizen access and participation in local government. The Mayor or his or her designee, and the Clerk of the Board of Supervisors and his or her designee, shall serve as nonvoting members of the Task Force. The City Attorney shall serve as legal advisor to the Task Force.

(b) The term of each appointive member shall be two years unless earlier removed by the Board of Supervisors. In the event of such removal or in the event a vacancy otherwise occurs during the term of office of any appointive member, a successor shall be appointed for the unexpired term of the office vacated in a manner similar to that described herein for the initial members. The Task Force shall elect a chair from among its appointive members. The term of office as chair shall be one year. Members of the Task Force shall serve without compensation.

(c) The Task Force shall advise the Board of Supervisors and provide information to other City departments on appropriate ways in which to implement this Chapter. The Task Force shall develop appropriate goals to ensure practical and timely implementation of this Chapter. The Task Force shall propose to the Board of Supervisors amendments to this Chapter. The Task Force shall report to the Board of Supervisors at least once annually on any practical or policy problems encountered in the administration of this Chapter.

(d) In addition to the powers specified above, the Task Force shall possess such powers as the Board of Supervisors may confer upon it by ordinance. (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 118-94, App. 3/18/94; Ord. 432-94, App. 12/30/94; Ord. 287-96, App. 7/12/96; Ord. 198-98, App. 6/19/98; Ord. 387-98, App. 12/24/98)

SEC. 67.31. RESPONSIBILITY FOR ADMINISTRATION. The Mayor shall administer and coordinate the implementation of the provisions of this Chapter for departments under his or her control. The Mayor shall administer and coordinate the implementation of the provisions of this Chapter for departments under the control of boards and commissions appointed by the Mayor. Elected officers shall administer and coordinate the implementation of the provisions of this Chapter for departments under their respective control. The Mayor shall administer the Task Force On The Implementation Of The San Francisco Sunshine Ordinance. (Added by Ord. 265-93, App. 8/18/93; amended by Ord. 287-96, App. 7/12/96)

SEC. 67.32. SEVERABILITY. The provisions of this Chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Chapter, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this Chapter, or the validity of its application to other persons or circumstances. (Added by Ord. 265-93, App. 8/18/93)

CHAPTER 68**CULTURAL EQUITY ENDOWMENT FUND**

- Sec. 68.1. Purposes.
- Sec. 68.2. Principles for Cultural Equity Endowment Fund.
- Sec. 68.3. Establishment of Cultural Equity Endowment Fund.
- Sec. 68.4. Cultural Equity Initiatives Program.
- Sec. 68.5. Commissions to Individual Artists.
- Sec. 68.6. Project Grants to Small and Mid-size Organizations.
- Sec. 68.7. Facilities Fund.
- Sec. 68.8. Administration of the Fund.

SEC. 68.1. PURPOSES. The Cultural Equity Endowment Fund ("Fund") is established to move San Francisco arts funding toward cultural equity. The goal of cultural equity will be achieved when all the people that make up the City have fair access to the information, financial resources and opportunities vital to full cultural expression, and the opportunity to be represented in the development of arts policy and the distribution of arts resources; when all the cultures and subcultures of the City are expressed in thriving, visible arts organizations of all sizes; when new large-budget arts institutions flourish whose programming reflects the experiences of historically underserved communities, such as: African American; Asian American; disabled; Latino; lesbian and gay; Native American; Pacific Islander; and, women. (Added by Ord. 354-93, App. 11/12/93)

SEC. 68.2. PRINCIPLES FOR CULTURAL EQUITY ENDOWMENT FUND. The Fund is established upon the following principles:

- (a) It is the City's goal to achieve cultural equity, where every art form, from all segments of the population, has the opportunity to develop to its maximum potential.
- (b) The Fund programs should be implemented through a public process.
- (c) A healthy arts environment thrives at all levels. The productive vitality of individual artists, small and mid-size arts organizations, and grassroots cultural groups is as important to the City as the strength of the large-budget arts institutions.
- (d) The arts play a vital economic role in San Francisco. The Fund is established to assist in keeping all the arts healthy.
- (e) The Fund is established in the belief that the many cultural traditions which meet in San Francisco can thrive side by side and enrich each other. (Added by Ord. 354-93, App. 11/12/93)

SEC. 68.3. ESTABLISHMENT OF CULTURAL EQUITY ENDOWMENT FUND. There is hereby established a Cultural Equity Endowment Fund to be funded with monies collected and allocated pursuant to San Francisco Municipal Code, Part III, Section 515.

- (a) Any unexpended balances remaining in the allocation to the Fund at the close of any fiscal year shall be deemed to be provided for a specific purpose within the meaning of Charter Section 6.306 and shall be carried forward and accumulated in the Fund for the purposes set forth in this Chapter 68.

(b) The San Francisco Art Commission is hereby authorized and directed to expend the monies allocated to the Fund and to implement and administer the Fund programs.

(c) The monies in the Fund shall be expended for the following four programs:

- (1) Cultural Equity Initiatives Program;
- (2) The Program for Commissions to Individual Artists;
- (3) Project Grants to Small and Mid-size Organizations; and
- (4) The Facilities Fund.

(d) The Art Commission may evaluate and review the demands for and by cultural and artistic programs and the level of resources available for such programs, and may determine the percentage of Fund monies allocated to each of the four programs. The Art Commission shall not be required to fund all four programs every year if the Art Commission determines, after review and evaluation, that demand for and by the program does not warrant expenditure. (Added by Ord. 354-93, App. 11/12/93)

SEC. 68.4. CULTURAL EQUITY INITIATIVES PROGRAM. The Cultural Equity Initiatives Program shall be used to support arts organizations which are deeply rooted in and able to express the experiences of historically underserved communities such as: African American; Asian American; disabled; Latino; lesbian and gay; Native American; Pacific Islander; and, women. Awards may be made for the following types of projects:

- (1) Creation of new programs;
 - (2) Expansion of existing programs;
 - (3) Technical assistance to improve an arts organization's management and artistic effectiveness;
 - (4) Training programs;
 - (5) Development of artistic projects;
 - (6) Marketing;
 - (7) Acquisition of equipment necessary for the arts organization's artistic services; and,
 - (8) Cross-cultural collaborations among individual artists or arts organizations.
- (Added by Ord. 354-93, App. 11/12/93)

SEC. 68.5. COMMISSIONS TO INDIVIDUAL ARTISTS. The Commissions to Individual Artists Program shall provide support to individual artists to stimulate production and dissemination of works of art in all disciplines and all neighborhoods of San Francisco. The majority of Commissions to Individual Artists in any year shall be to artists who are deeply rooted in and able to express the experiences of historically underserved communities such as African American; Asian American; disabled; Latino; lesbian and gay; Native American; Pacific Islander; and, women. (Added by Ord. 354-93, App. 11/12/93)

SEC. 68.6 PROJECT GRANTS TO SMALL AND MID-SIZE ORGANIZATIONS. Project Grants shall be awarded to small and mid-size arts organizations to stimulate the production and dissemination of works of art in all disciplines in the City and County of San Francisco. The majority of grants in any program year shall be made to arts organizations fostering artistic expression that is deeply rooted in and

reflective of historically underserved communities such as: African American; Asian American; disabled; Latino; lesbian and gay; Native American; Pacific Islander; and, women. (Added by Ord. 354-93, App. 11/12/93)

SEC. 68.7. FACILITIES FUND. The Facilities Fund Program shall provide grants, loans and technical assistance to tax-exempt organizations for projects which provide appropriate and affordable facilities for artists and arts organizations. The majority of grants or loans in any program year shall be made to arts organizations fostering artistic expression which is deeply rooted in and reflective of historically underserved communities, such as African American; Asian American; disabled; Latino; lesbian and gay; Native American; Pacific Islander, and, women, or tax-exempt organizations which provide live/work units to low- and moderate-income artists. (Added by Ord. 354-93, App. 11/12/93)

SEC. 68.8 ADMINISTRATION OF THE FUND. (a) **Art Commission Administrative Costs.** The Art Commission shall be provided monies necessary to pay for the costs of implementing and administering the Fund. In the first year of implementation of the Fund programs, no more than 16 percent of the total monies allocated to the Fund pursuant to San Francisco Municipal Code, Part III, Section 515 shall be allocated to the Art Commission for administrative costs. In the second year of implementation of the Fund programs, no more than 14 percent of the total amount allocated to the Fund shall be used to cover administrative costs of the Art Commission. In the third and following years of implementation of the Fund programs, the Art Commission shall be allocated no more than 12.5 percent of the total monies allocated to the Fund. Any unexpended balances remaining in the administrative allocations set forth in this Section 68.8(a) shall be carried forward and accumulated for the purposes recited herein.

(b) **Authority of the Art Commission.** The Art Commission is hereby authorized to implement and administer the Fund programs, subject to the budget and fiscal provisions of the Charter. Such implementation and administration may include, but not be limited to, the following actions by the Art Commission:

(1) Adoption of guidelines and regulations for implementation, review and expenditure of the Fund in each of the four programs;

(2) Appointment of review panels and establish qualifications for members of the review panels and procedures for the review panel to advise the Art Commission on such expenditures;

(3) Determination of appropriate levels of funding each year for each of the Fund programs;

(4) Establishment of criteria and eligibility standards for applicants of Fund programs;

(5) Establishment of criteria for awarding, granting or lending monies from Fund programs; and,

(6) Execution of loan agreements, approved as to form by the City Attorney, made pursuant to Facilities Funds awards. The Art Commission may employ one or more administrators of the Fund as necessary to administer and implement the Fund programs.

(c) **Appeals Process.** The Art Commission may, at its discretion, establish an appeals process for any decisions regarding allocations of the fund.

(d) **Annual Review.** The Art Commission may appoint an Advisory Committee to conduct an annual review of implementation of the Fund. (Added by Ord. 354-93, App. 11/12/93)

CHAPTER 69

SAN FRANCISCO HEALTH AUTHORITY

Sec. 69.1.	The San Francisco Health Authority; Establishment.
Sec. 69.2.	Purpose.
Sec. 69.3.	Powers and Responsibilities.
Sec. 69.4.	Governing Body.
Sec. 69.5.	Required Insurance.
Sec. 69.6.	When Constituted.

SEC. 69.1. THE SAN FRANCISCO HEALTH AUTHORITY; ESTABLISHMENT. Pursuant to the authority granted to the City and County of San Francisco by Welfare and Institutions Code Section 14087.36 (hereafter, "Section 14087.36"), there is hereby established the San Francisco Health Authority as a public entity separate and distinct from the City and County of San Francisco. (Added by Ord. 408-94, App. 12/15/94)

SEC. 69.2. PURPOSE. The San Francisco Health Authority recognizes that Medi-Cal beneficiaries have traditionally faced a significant lack of access to health care and have been dependent upon traditional, safety net, and other concerned providers for needed health care services. The City and private providers of health care and other interested parties have collaborated in the development of a managed care plan and the San Francisco Health Authority is established as the result of this collaborative effort.

The Board of Supervisors has determined to establish the Health Authority as the Local Initiative under the Medi-Cal program. The Board of Supervisors has determined that it is in the public interest to establish the Health Authority to create an efficient, integrated health care delivery system in order to provide, as contracted by the California State Department of Health Services with the Authority, access to comprehensive health care services for Medi-Cal beneficiaries and such other persons as the Health Authority deems appropriate; to provide quality care that is compassionate, respectful and culturally and linguistically appropriate; and to ensure preservation of the safety net. (Added by Ord. 408-94, App. 12/15/94)

SEC. 69.3. POWERS AND RESPONSIBILITIES. (a) The San Francisco Health Authority shall be the local initiative component of the Medi-Cal state plan pursuant to regulations adopted by the State Department of Health Services.

(b) The Health Authority may undertake all actions and perform all functions authorized by Section 14087.36 or otherwise permitted by law. In addition, the Health Authority may apply for and obtain licensure as a health care service plan under Health and Safety Code Section 1340 et seq. and, once so licensed, may engage in all activities permitted of a health care service plan.

(c) The Health Authority may enter into contracts to provide or arrange for health care services for persons eligible to receive benefits under the Medi-Cal program and to other individuals, including, but not limited to, those covered under Subchapter 18 (commencing with Section 1395) of Chapter 7 of Title 42 of the United

State Code, individuals employed by public agencies and private businesses, and uninsured or indigent individuals.

(d) The Health Authority shall have all the rights, powers, duties, privileges, immunities, and obligations provided pursuant to Section 14087.36.

(e) Members of the governing body of the Health Authority shall not be compensated for their service on the governing body, but may be reimbursed for authorized expenses under procedures established by the governing body.

(f) The Health Authority may adopt rules and regulations governing the operation and procedures of the governing body and the Authority, provided that such rules and regulations are not in conflict with the provisions of Section 14087.36. (Added by Ord. 408-94, App. 12/15/94)

SEC. 69.4. GOVERNING BODY. (a) The governing body of the Health Authority shall consist of 19 members who shall have the qualifications required by Section 14087.36. The Board of Supervisors shall, by resolution, appoint 14 persons pursuant to the nomination procedure set forth in Section 14087.36. The Mayor shall appoint a person to serve at the pleasure of the Mayor. The Director of Public Health, the Director of Mental Health, and the Chancellor of the University of California at San Francisco shall each serve as a member or appoint a designee to serve at his or her pleasure. The Health Commission shall appoint a person to serve at its pleasure. Appointments and changes in appointment, other than those of the Board of Supervisors, shall be made by filing written notice with the Clerk of the Board of Supervisors.

(b) All members of the governing body shall be voting members except the member appointed by the San Francisco Health Commission.

(c) The initial members appointed by the Board of Supervisors shall be, to the extent those individuals meet the qualifications required by Section 14087.36(k) and are willing to serve, those persons serving as members of the San Francisco Managed Care Steering Committee.

(d) The term of office for each member appointed by the Board of Supervisors shall be three years, commencing at 12:00 noon, on the 15th day of January in the year 1995; provided that at the initial meeting of the governing body the members appointed by the Board of Supervisors shall draw lots to determine seven members whose initial terms of office shall be for two years; and provided further that the person appointed pursuant to Section 14087.36(k)(1)(A) as a member or representative of the Board of Supervisors shall serve at the pleasure of the Board.

(e) For purposes of Government Code Section 87103, the members of the governing body are appointed to represent and further the interests of the specific health care providers and other interests specified in Section 14087.36(k) and (q).

(f) The filling of vacant positions, the rights of members whose terms have expired, voting procedures, the selection of the chair, the establishment of committees, and the procedure for changing the composition of the governing body and the appointment of members shall be as set forth in Section 14087.36.

(g) A member of the governing body may be removed from office by the Board of Supervisors by resolution, but only upon the recommendation of the Health Authority and for the reasons specified in Section 14087.36.

(h) A member of the governing body may resign from office by submitting a written notice of resignation to the Health Authority. The Health Authority shall notify the Clerk of the Board of Supervisors of the resignation within five days.

(i) Upon approval of this ordinance, the Clerk of the Board shall schedule a hearing before an appropriate committee of the Board for consideration of the appointment of members to the governing body of the Health Authority. The Clerk shall provide notice of the hearing to persons and entities with the authority to nominate and to other interested parties.

(j) The Health Authority shall notify the Board of Supervisors four months prior to the expiration of any term of office of a member of the governing body. The Clerk shall promptly notify the entity with the authority to nominate a person for the position that a nomination is required and must be submitted within 30 days. Upon receipt of the nomination, the Clerk shall schedule a hearing before an appropriate committee of the Board for consideration of the appointment. If a position on the governing body becomes vacant, the Health Authority shall promptly notify the Clerk, who shall notify the nominating authority for the vacant position and, upon receipt of the nomination, schedule a hearing before the appropriate committee of the Board for consideration of an appointment to fill the vacant position. (Added by Ord. 408-94, App. 12/15/94)

SEC. 69.5. REQUIRED INSURANCE. The Risk Manager of the City and County shall determine the type and amount of insurance that is reasonably necessary to enable the Health Authority to provide for the defense and indemnification of employees of the Health Authority who are employees of the City and County of San Francisco, as required by Section 14087.36(d)(1)(A). The Health Authority shall provide insurance of the amount and type, and subject to such terms and conditions, as may be required by the Risk Manager, including any changes in that determination that may be appropriate for reasons that the Risk Manager shall provide in writing. (Added by Ord. 408-94, App. 12/15/94)

SEC. 69.6. WHEN CONSTITUTED. The Health Authority may take official action once a majority of the voting members of the governing body have been appointed. (Added by Ord. 408-94, App. 12/15/94)



CHAPTER 70**IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY**

Sec. 70.1.	Purpose.
Sec. 70.2.	Membership of Governing Body.
Sec. 70.3.	Powers.
Sec. 70.4.	Fiscal Provisions.
Sec. 70.5.	Annual Report and Plan.
Sec. 70.6.	Transition of Functions.
Sec. 70.7.	Termination.
Sec. 70.8.	Enumeration of Powers.
Sec. 70.9.	Disclaimers.
Sec. 70.10.	Severability.

SEC. 70.1. PURPOSE. The Board of Supervisors for the City and County of San Francisco (hereinafter, City) by this Chapter establishes a public authority whose powers are derived from and consistent with the provisions of Welfare and Institutions Code Section 12301.6. The name of this public authority shall be the In-Home Supportive Services Public Authority, and shall be referred to in this Chapter as the "Authority." Its purpose is to provide assistance in finding personnel for the In-Home Supportive Services Program (IHSS) through the establishment of a central registry, and related functions, and to perform any other functions, as may be necessary for the operation of the Authority, or related to the delivery of IHSS in San Francisco, subject to all applicable federal and State laws and regulations, and to the limitations set forth in this Chapter. (Added by Ord. 185-95, App. 6/9/95)

SEC. 70.2. MEMBERSHIP OF GOVERNING BODY. (a) The governing body of the Authority shall be composed of 11 members appointed by the Board of Supervisors. The Board of Supervisors shall solicit recommendations for appointment of qualified members through a fair and open process, including reasonable written notice to, and affording reasonable response time from, members of the general public and interested persons and organizations. No fewer than 50 percent of the membership shall be individuals who are current or past users of personal assistance services paid for through public or private funds or who are recipients of IHSS, referred to in this Chapter as "consumers."

(b) Membership categories on the governing body shall be as follows:

- (1) Two consumers over the age of 60 years, each authorized to represent organizations that advocate for aging people with disabilities;
- (2) Two consumers between the ages of 18 and 60 years, each authorized to represent organizations that advocate for younger people with disabilities;
- (3) One consumer at-large over the age of 60 years;
- (4) One consumer at-large between the ages of 18 and 60 years;
- (5) One worker who provides personal assistance services to a consumer;
- (6) One Commissioner from the Social Services Commission, recommended to the Board by the Commission;
- (7) One Commissioner from the Commission on the Aging, recommended to the Board by the Commission;

(8) One Commissioner from the Health Commission, recommended to the Board by the Commission;

(9) One member of the Mayor's Disability Council, recommended to the Board by the Council.

(c) For purposes of Government Code Section 87103, and 2 California Code of Regulations 18703.3, it is hereby found and declared that the persons appointed to this governing body are appointed to represent and further the interests of the specific economic interest which an individual member is appointed to represent.

(d) Initial appointment of both the consumer and worker members shall be made from a list of recommendations based on applications designed by, and submitted to, the IHSS Task Force of Planning for Elders in the Central City. Succeeding appointments of consumer and worker members shall be based on a procedure developed by the governing body of the Authority, within the first six months of operation, after receiving recommendations from the IHSS Task Force of Planning for Elders in the Central City. Every attempt shall be made to assure that each appointee will be able to serve the full term to which he or she has been appointed, in order to ensure continuity in the work of the Authority.

(e) If during his or her term as a member of the governing body of the Authority, a Social Services, Aging, or Health Commissioner or member of the Mayor's Disability Council no longer serves on the Commission or Council, the body from which that member came shall make another recommendation for appointment to the Board of Supervisors within 60 days of the end of that member's formal service on their respective Commission or on the Council.

(f) After the terms of the initial period are complete, each appointment to the governing body shall thereafter be for a three-year term. A member may be reappointed, but may not serve more than a total of nine consecutive years on the governing body. The initial appointment periods shall be staggered as follows:

- (1) Three one-year terms;
- (2) Four two-year terms; and
- (3) Four three-year terms.

Upon appointment, members shall draw lots to determine the length of each member's initial term. Members shall serve without compensation.

(g) Qualified applicants must reside in San Francisco and have: familiarity with, or knowledge of, personal assistance services; the capacity to understand their role to aid and assist the Authority in the administration of its duties; and the ability to attend regularly scheduled meetings, which shall occur only in facilities which meet disability access requirements. Those City departments from which Authority members are drawn shall provide appropriate assistance to their respective representative in fulfilling his or her duties to the Authority. Within the first 90 days, the members of the governing body of the Authority shall receive orientation and training from the IHSS Task Force of Planning for Elders in the Central City and the Department of Social Services regarding the functions and duties of the Authority, current issues related to delivery of IHSS and the responsibilities of the Authority's governing body. Each subsequent new member shall receive similar orientation and training from Authority staff within 60 days of appointment.

(h) Regulations governing the grounds for removal from, and use of alternates on, the governing body shall be proposed by the governing body and submitted to the Board of Supervisors within 90 days of the date of the first meeting of the governing

body. These regulations and any proposed amendments shall be initiated exclusively by the governing body and submitted to the Board of Supervisors for review, and shall become effective within 90 days of the date of receipt by the Board, unless disapproved by the Board by resolution. In exercising these review powers, the Board of Supervisors may only approve or disapprove; it may not modify such regulations and proposed amendments. (Added by Ord. 185-95, App. 6/9/95)

SEC. 70.3. POWERS. (a) The Authority shall be an entity separate from the City and County of San Francisco and shall file the Statement of Fact for the Roster of Public Agencies required by Section 53051 of the Government Code.

(b) The Authority shall be a corporate public body, exercising public and essential governmental functions with all powers necessary and convenient to carry out the delivery of IHSS, including the power to contract for services pursuant to Sections 12302 and 12302.1 of the Welfare and Institutions Code, subject to any limitations set forth in this Chapter.

(c) The Authority shall only engage in the following duties and functions involving IHSS until such time that the requirements for the transferring of additional functions, as set forth in Section 70.6 of this Chapter, are met: planning and advocacy for IHSS consumers and personnel; operation of a registry, including investigation of the qualifications and background of potential personnel, and referral of potential personnel to consumers; and acting as the employer of IHSS personnel in conformance with Subsection (g) of this Section.

(d) Any obligation or legal liability of the Authority, whether statutory, contractual or otherwise, shall be the obligation or liability solely of the Authority and shall not be the obligation or the liability of the City. All contracts between the Authority and third parties shall contain an express provision advising the contractor that the Authority is a separate governmental entity and that such agreement does not bind the City.

(e) All contracts, leases, or other agreements of any nature, including collective bargaining agreements, between the Authority and any party, except those with the City, shall contain the following statement: "The Authority is an independent legal entity, separate and apart from the City and County of San Francisco. The Authority has no power to bind the City to any contractual or legal obligations. Nor may the obligees of the Authority seek recourse against the City for any financial or legal obligation of the Authority."

(f) Employees of the Authority shall not be employees of the City for any purpose.

(g) The Authority shall be deemed to be the employer of IHSS personnel referred to consumers, under Paragraph (3) of Subdivision (d) within the meaning of Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code, commonly known as the Meyers-Milias-Brown Act. The Authority shall not be deemed to be the employer of IHSS personnel referred to consumers under this Chapter for purposes of liability due to the negligence or intentional torts of the IHSS personnel.

(h) Nothing in these enumerated powers shall be construed to limit or interfere with the consumers' right to retain, select, terminate, and direct the work of any worker providing services to them.

(i) Nothing in these enumerated powers shall be construed to alter, require the alteration of, or interfere with the State's payroll system and other provisions of Section 12302.2 of the Welfare and Institutions Code for independent providers of IHSS, or to affect the State's responsibilities with respect to unemployment insurance, or workers' compensation for providers of IHSS.

(j) The Authority shall maintain general liability insurance in an amount determined to be adequate by the City's Risk Manager, and shall name the City as an additional insured.

(k) The governing body of the Authority shall hire staff, and adopt rules and regulations, not inconsistent with the provisions of this Chapter, in order to implement and interpret this Chapter. (Added by Ord. 185-95, App. 6/9/95)

SEC. 70.4. FISCAL PROVISIONS. (a) In order to facilitate the implementation of the Authority in a timely manner, the City Treasurer and the City Controller may enter into contracts with the Authority for the provision of fiscal services, with or without compensation from the Authority, under such terms and conditions as the Treasurer and Controller may require. If any such contract is executed, the Controller shall establish and maintain a specific account or accounts for this purpose. In addition, other City departments may enter into contracts with the Authority, with or without compensation, for the provision of various services that may be needed by the Authority. All such contracts are subject to the applicable approval process as required by the San Francisco Charter, the San Francisco Administrative Code and the respective department regulation and policy.

(b) In adopting this Chapter, the Board recognizes that the funding of IHSS is the product of a complex relationship of federal, State and City financing, and that the ability of the Authority to operate and to negotiate the wages and benefits of the providers of IHSS is contingent upon the availability of adequate funding from all sources. Nothing in this Chapter is intended to require the City to appropriate any funds for the operation of the Authority or for the payment of wages or benefits to the providers of IHSS.

(c) The Department of Social Services shall be the financial liaison between the City and County of San Francisco and the Authority. The Department of Social Services shall take appropriate action in order to procure all available federal and State funds for the administration and delivery of IHSS, and by contract, grant or agreement, transfer monies procured from these sources and from any funds that the City may appropriate, to the Authority for the operation of its designated functions, subject to the budgetary and fiscal provisions of the San Francisco Charter and the San Francisco Administrative Code. The Authority shall submit its annual funding request to the Department of Social Services no later than the deadline determined by the Department of Social Services no later than the deadline determined by the Department of Social Services to enable the Department to prepare and submit its budget to the Mayor's office. The Authority shall comply with all claiming and reporting deadlines set by the Department of Social Services.

The total of all operating costs, wages and benefits proposed or established by the Authority must be consistent with the provisions of the final City budget.

The Authority may not establish a payment rate that includes the costs of wages, benefits and operation, until the governing body of the Authority makes a finding that the funds necessary for payment of that rate are legally available.

(d) If and when the federal or State agencies responsible for IHSS promulgate regulations that authorize and create direct funding mechanisms for the Authority, the Authority and the Department of Social Services may modify their agreements to facilitate that direct financial relationship. (Added by Ord. 185-95, App. 6/9/95)

SEC. 70.5. ANNUAL REPORT AND PLAN. The Authority shall submit annually a report to the Board of Supervisors detailing its functions and evaluating its operation for that year. In addition, such report shall present the Authority's specific goals and objectives for the coming year and its plan for meeting those goals and objectives. If, for any coming year, the Authority intends to expand its duties, the Authority shall present a detailed plan and budget for the implementation of that expansion of duties. Such plan shall be circulated to all interested City departments and community groups prior to presentation to the Board of Supervisors. (Added by Ord. 185-95, App. 6/9/95)

SEC. 70.6. TRANSITION OF FUNCTIONS. Prior to any transfer of federal or State-mandated IHSS functions from City responsibility to the Authority, all affected Commissions, by resolution, and the Board of Supervisors, by ordinance, must approve such relinquishment by the City to the Authority of responsibility with respect to IHSS services. Further, the Authority, through its applicable process, must accept all legal liability for those legally mandated responsibilities transferred by the City to the Authority. (Added by Ord. 185-95, App. 6/9/95)

SEC. 70.7. TERMINATION. By repeal of this Chapter, the Board of Supervisors may abolish the Authority. (Added by Ord. 185-95, App. 6/9/95)

SEC. 70.8. ENUMERATION OF POWERS. The enumeration of powers in this Chapter of some of the provisions of Welfare and Institutions Code Section 12301.6 shall not be interpreted as manifesting an intent of the Board of Supervisors to subject either the City or the Authority to duties or liabilities not imposed by that statute. (Added by Ord. 185-95, App. 6/9/95)

SEC. 70.9. DISCLAIMERS. By establishing the Authority, the City and County of San Francisco is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. (Added by Ord. 185-95, App. 6/9/95)

SEC. 70.10. SEVERABILITY. (a) If any provision of this Chapter, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Chapter, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Chapter are severable.

(b) Notwithstanding the provisions of Subsection (a) of this Section, if any provision of this Chapter imposing limitations or restrictions on the Authority, or the powers or duties of the Authority, including the ability of the Authority to propose or establish payment rates, shall be held invalid, the provisions of this Chapter shall

not be deemed severable and this Chapter shall be held invalid in its entirety. (Added by Ord. 185-95, App. 6/9/95)

CHAPTER 71**MILLS ACT CONTRACT PROCEDURES**

- Sec. 71.1. Purpose.
- Sec. 71.2. Qualified Historic Property.
- Sec. 71.3. Application for Historical Property Contract.
- Sec. 71.4. Approval Process.
- Sec. 71.5. Terms of the Historical Property Contract.
- Sec. 71.6. Fees.

SEC. 71.1. PURPOSE. (a) The purpose of this Chapter 71 is to implement the California Mills Act, California Government Code Sections 50280 et seq. The Mills Act authorizes local governments to enter into contracts with owners of private historical property who will rehabilitate, restore, preserve, and maintain qualified historical property. As consideration for the rehabilitation, restoration, preservation and maintenance of the qualified historical property, the City and County of San Francisco may provide certain property tax reductions in accordance with Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.

(b) San Francisco contains many historic buildings which add to its character and international reputation. Many of these buildings have not been adequately maintained, may be structurally deficient, or may need rehabilitation. The costs of properly rehabilitating, restoring and preserving historic buildings may be prohibitive for property owners. Implementation of the Mills Act in San Francisco will make the benefits of the Mills Act available to many property owners.

(c) The benefits of the Mills Act to the individual property owners must be balanced with the cost to the City and County of San Francisco of providing the property tax reductions set forth in the Mills Act as well as the historical value of individual buildings proposed for historical property contracts, and the resultant property tax reductions, under the Mills Act. (Added by Ord. 191-96, App. 5/22/96)

SEC. 71.2. QUALIFIED HISTORIC PROPERTY. An owner, or an authorized agent of the owner, of a qualified historical property may apply for a historical property contract. For purposes of this Chapter 71, "qualified historical property" shall mean privately owned property which is not exempt from property taxation and which is one of the following:

- (a) Individually listed in the National Register of Historic Places; or
- (b) Designated as a City landmark pursuant to San Francisco Planning Code Article 10. (Added by Ord. 191-96, App. 5/22/96)

SEC. 71.3. APPLICATION FOR HISTORICAL PROPERTY CONTRACT. An owner, or an authorized agent of an owner, of a qualified historical property may submit an application for a historical property contract to the Planning Department on forms provided by the Planning Department. The property owner shall provide, at a minimum, the address and location of the qualified historical property, evidence that the property is a qualified historical property, the nature and cost of the rehabilitation, restoration or preservation work to be conducted on the property, and a plan for

continued maintenance of the property. The Planning Department may require any further information it determines necessary to make a recommendation on the historical property contract. (Added by Ord. 191-96, App. 5/22/96)

SEC. 71.4. APPROVAL PROCESS. (a) **Review by the Assessor's Office.** The Planning Department shall refer the application for historical property contract to the San Francisco Assessor for its review and recommendation. The Assessor shall provide to the Board of Supervisors an estimate of the property tax calculations and the difference in property tax assessments under the different valuation methods permitted by the California Mills Act so that the City can evaluate the difference between property tax which would normally be collected by the City and the property tax which would be collected pursuant to the historical property contract.

(b) **Landmarks Board Review.** The Landmarks Preservation Advisory Board shall hold a public hearing to review the application for the historical property contract and shall make its recommendation to the Planning Commission on the proposed rehabilitation, restoration or preservation work, the historical value of the qualified historical property and any proposed preservation restrictions and maintenance requirements.

(c) **Planning Commission Review.** Upon receipt of the Landmarks Board's recommendation, the Planning Commission shall hold a public hearing to review the application for the historical property contract. Upon approval by the Planning Commission, the application shall be referred to the Board of Supervisors for its review and approval or disapproval. In the event the Planning Commission disapproves the historical property contract, such decision shall be final unless the property owner appeals such disapproval by filing an appeal with the Board of Supervisors within 10 days of final action by the Planning Commission.

(d) **Board of Supervisors Decision.** The Board of Supervisors shall conduct a public hearing to review the Planning Commission recommendation, the information provided by the Assessor's Office, and any other information the Board requires in order to determine whether the City should execute a historical property contract for a particular property. The Board of Supervisors shall have full discretion to determine whether it is in the public interest to enter a Mills Act historical property contract with a particular qualified historical property. The Board of Supervisors may approve, disapprove, or modify and approve the terms of the historical property contract. Upon approval, the Board of Supervisors shall authorize the Director of Planning and the Assessor to execute the historical property contract. (Added by Ord. 191-96, App. 5/22/96)

SEC. 71.5. TERMS OF THE HISTORICAL PROPERTY CONTRACT. (a) The historical property contract shall set forth the agreement between the City and the property owner that as long as the property owner properly rehabilitates, restores, preserves and maintains the qualified historical property as set forth in the contract, the City shall comply with California Revenue and Taxation Code Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1, provided that the Assessor determines that the specific provisions of the Revenue and Taxation Code are applicable to the property in question. A historical property contract shall contain, at a minimum, the following provisions:

- (1) The term of the contract, which shall be for a minimum of 10 years;

(2) The owner's commitment and obligation to preserve, rehabilitate, restore and maintain the property in accordance with the rules and regulations of the Office of Historic Preservation of the California Department of Parks and Recreation and the United States Secretary of the Interior's standards for the Treatment of Historic Properties;

(3) Permission to conduct periodic examinations of the interior and exterior of the qualified historical property by the Landmarks Board, the Assessor, the Department of Building Inspection, the Office of Historic Preservation of the California Department of Parks and Recreation and the State Board of Equalization as may be necessary to determine the owner's compliance with the historical property contract;

(4) That the historical property contract is binding upon, and shall inure to the benefit of, all successors in interest of the owner;

(5) An extension to the term of the contract so that one year is added automatically to the initial term of the contract on the anniversary date of the contract or such other annual date as specified in the contract unless notice of nonrenewal is given as provided in the Mills Act and in the historical property contract;

(6) Agreement that the Board of Supervisors may cancel the contract, or seek enforcement of the contract, when the Board determines, based upon the recommendation of any one of the entities listed in Subsection (3) above, that the owner has breached the terms of the contract. The City shall comply with the requirements of the Mills Act for enforcement or cancellation of the historical property contract. Upon cancellation of the contract, the property owner shall pay a cancellation fee of 12.5 percent of the full value of the property at the time of cancellation (or such other amount authorized by the Mills Act), as determined by the Assessor without regard to any restriction on such property imposed by the historical property contract; and

(7) The property owner's indemnification of the City for, and agreement to hold the City harmless from, any claims arising from any use of the property.

(b) The City and the qualified historical property owner shall comply with all provisions of the California Mills Act, including amendments thereto. The Mills Act, as amended from time to time, shall apply to the historical property contract process and shall be deemed incorporated into each historical property contract entered into by the City. (Added by Ord. 191-96, App. 5/22/96)

SEC. 71.6. FEES. The Planning Department shall determine the amount of a fee necessary to compensate the City for processing and administering an application for a historical property contract. The fee shall pay for the time and materials required to process the application, based upon the estimated actual costs to perform the work, including the costs of the Planning Department, the City Attorney, the Assessor and the Board of Supervisors. The City may also impose a separate fee, following approval of the historical property contract, to pay for the actual costs of inspecting the qualified historical property and enforcing the historical property contract. Each department shall provide a written estimate of its costs to process the application. Such estimates shall be provided to the applicant, who shall pay the fee when submitting the application. In the event that the costs of processing the application are lower than the estimates, such differences shall be refunded to the applicant. In the event the costs exceed the estimate, the Planning Department shall provide the applicant with a written analysis of the additional fee necessary to complete the review of the application, and applicant shall pay the additional amount prior to any action

approving the historical property contract. Failure to pay any fees shall be grounds for cancelling the historical property contract. (Added by Ord. 191-96, App. 5/22/96)

CHAPTER 72**RELOCATION ASSISTANCE FOR
LEAD HAZARD REMEDIATION**

Sec. 72.1.	Intent and Purpose.
Sec. 72.2.	Definitions.
Sec. 72.3.	Conditions for Relocation Assistance.
Sec. 72.4.	Extensions to Payment of Relocation Assistance.
Sec. 72.5.	Rent Increases During Lead Hazard Work.
Sec. 72.6.	Violation and Penalty.
Sec. 72.7.	Enforcement.

SEC. 72.1. INTENT AND PURPOSE. (a) The Board of Supervisors finds that residents who are required to vacate their units because an order to abate has been issued by the Director of the Department of Building Inspection ("DBI") or Director of Public Health ("DPH"), stating that there are unsafe housing conditions due to the presence of lead hazards or the unpermitted status or occupancy of the unit discovered as a result of a lead hazard inspection of the building pursuant to San Francisco Health Code Article 26, may experience relatively greater difficulty finding affordable replacement housing because of the expediency with which the displacement occurs. Moreover, an order to abate may require temporary vacation to protect occupant health and safety because the work necessary to make the unit habitable cannot be performed while the occupants remain in place.

(b) The City and County of San Francisco has embarked on an ambitious program to eradicate lead hazards throughout significant portions of the housing stock. An investigation under this enforcement program is triggered by the presence of a child with elevated levels of lead in their blood, commonly known as a lead-poisoned child. Many lead-poisoned children reside in low-income households. Additionally, many of the housing units in which lead-poisoned children reside are also units that are not safe for residential use or occupancy.

(c) In order to insure that these enforcement efforts reach the greatest possible number of households with lead-poisoned children and housing units with lead hazards, there must be incentives and protections for those occupants who, by reporting lead hazards, risk the temporary or permanent loss of their affordable housing.

(d) The Board of Supervisors specifically finds that tenants displaced as a result of lead hazard relocation suffer a financial burden because of the acute lack of resources available for locating and securing suitable relocation housing. Additional hardship is often caused by lack of safe and decent comparably sized and located housing at an affordable rent. Local government has often assisted such displaced tenants with moving and associated relocation expenses. Resources to continue provision of this assistance have become increasingly scarce. Moreover, tenants displaced under these circumstances often require public health, transportation, storage and other public services on an interim basis, due to the health impacts of unsafe or hazardous housing.

(e) The Board of Supervisors further finds that funds allocated to the Department of Public Health should be available to provide relocation assistance to tenants who will be temporarily relocated for 30 days or less for abatement of the lead hazard.

(f) However, the Board of Supervisors has determined that if a landlord is obliged under this Chapter and under Chapter 37 of the San Francisco Administrative Code or any State or federal law to provide relocation assistance greater than that which is provided in this Chapter, the greatest amount of relocation assistance shall be made available.

(g) In order to ensure that adequate relocation assistance is available to lawful tenants and owner-occupants who are subject to lead hazard relocation and to provide that assistance in a manner that is as equitable as possible to the tenant, the landlord, the owner-occupant and the public at large, the Board of Supervisors finds and declares that this Ordinance is necessary to protect and further the public health, safety and welfare. (Added by Ord. 400-96, App. 10/21/96; amended by Ord. 394-97, App. 10/17/97)

SEC. 72.2. DEFINITIONS. For the purpose of this Chapter, the following terms are as defined below:

Citing Department. The Childhood Lead Prevention Program within the Department of Public Health or its successor agency and the Department of Building Inspection or its successor agency.

Director-DPH. Director of Public Health or his or her designee.

Director-DBI. Director of Building Inspection or his or her designee.

Household. An individual, two or more persons related by blood or marriage, or a group of persons who are not related by blood or marriage and who live together, before and after the relocation, in a dwelling unit or portion of a dwelling unit.

Landlord. An owner, lessor, or sublessor who receives or is entitled to receive rent for the use and occupancy of any dwelling unit or portion thereof, any nonresidential building, or any other premises in the City and County of San Francisco, and the agent, representative or successor of any of the foregoing.

Lead Hazard. Any condition that exposes children to lead from any source, including but not limited to lead-contaminated water, lead-contaminated dust, lead-contaminated soil, lead-based paint on impact surfaces, friction surfaces, or accessible surfaces, or deteriorated lead-based paint.

Lead Hazard Relocation. Relocation as a result of the presence of a lead hazard in the resident's unit or as a result of an lead hazard inspection of the building pursuant to the San Francisco Health Code, San Francisco Building Code or San Francisco Housing Code.

Lead-Poisoned Child. A child under six years old, with a venous blood lead level greater than or equal to 20 micrograms per deciliter, or a persistent venous blood lead level between 15-19 micrograms per deciliter based on consecutive measurements three to four months apart.

Notice to Vacate. Any notice or order issued by Department of Public Health or Department of Building Inspection that requires the temporary or permanent vacation of the unsafe residential unit.

Owner. Any person, agent, firm or corporation having a legal or equitable interest in a dwelling unit, building, or other premises. For purposes of orders under Health Code Sections 1628 and 1630, the term "owner" shall not include entities such

as banks or lending institutions holding equitable interests as security unless the entity is in actual physical control of the premises, or is performing property management activities.

Order to Abate. Any order to abate provided to a landlord or owner issued by the Department of Public Health, pursuant to Health Code Sections 1628 or 1630, the Department of Building Inspection, pursuant to San Francisco Building Code Section 102, subsequent to a lead hazard inspection which finds that there exists a lead hazard requiring corrective action or a failure to comply with the San Francisco Housing, Building, Plumbing, Electrical or Mechanical Codes due to an unpermitted residential use and occupancy.

Owner-occupant. An owner whose primary residence is in the residential unit which is the subject of the order to abate.

Proof of Compliance. Documentation, in such form as the citing department shall provide, that the lead hazards or conditions creating the unsafe unit have been abated pursuant to the terms and conditions of the order to abate.

Relocation Assistance. Benefits accruing to individual tenants and owner-occupants residing in unsafe residential units as defined herein.

Residential Unit. All residential dwelling units in the City and County of San Francisco together with the land and appurtenant buildings thereto, and all furnishings and facilities supplied in connection with the use or occupancy thereof, including garage and parking facilities.

Right to Occupy. The right of a tenant to reoccupy the residential unit or portion of the dwelling unit from which the tenant was displaced pursuant to the terms and conditions of this Chapter.

Tenant. A person entitled by written or oral agreement, subtenancy or by sufferance, to occupy a residential dwelling unit to the exclusion of others.

Unsafe Residential Unit. A residential unit shall be deemed unsafe for the purposes of this Chapter only if it or the common area of the building or structure in which it is located is the subject of a notice by the Director-DPH for lead hazards or by the Director-DBI for violations of the San Francisco Housing, Building, Plumbing, Electrical or Mechanical Codes due to unpermitted residential use and occupancy, where the notice of violation from DBI or DPH resulted from an inspection for lead hazards. (Added by Ord. 400-96, App. 10/21/96; amended by Ord. 394-97, App. 10/17/97)

SEC. 72.3. CONDITIONS FOR RELOCATION ASSISTANCE. Relocation assistance shall be provided to any lawful tenant or owner-occupant who has been served with a notice to vacate based on a lead hazard inspection. Any notice to vacate shall be written in the appropriate language(s) of the affected tenant(s), owner(s), owner-occupant(s) and/or manager(s). Any notice to vacate pursuant to which a tenant is entitled to relocation assistance under this Chapter, must comply with the relevant provisions of Sections 37.9(a)(10), (a)(11) or (a)(14) of the Administrative Code except that the landlord or owner is not obligated to pay relocation assistance as provided for in those Sections if the tenant receives relocation assistance pursuant to this Chapter. A notice to vacate based upon violations of Article 26 of the San Francisco Health Code will not be valid unless an order to abate, mandating abatement of the unsafe conditions in the residential unit from which relocation must occur, has been issued by a citing department.

A landlord may elect to temporarily relocate tenants pursuant to this Chapter for a period in excess of 30 days only if the conditions of Subsection (b) below are satisfied. A temporary relocation pursuant to this Chapter shall be subject to all rights and remedies provided by San Francisco Administrative Code Sections 37.9(a)(11) or (a)(14) except for the payment of relocation assistance as provided therein; provided, however, that a tenant temporarily relocated under this Chapter shall be displaced only for the lesser of (1) the time mandated by the citing department in its order to abate or (2) three months.

For purposes of this Chapter, it shall be rebuttably presumed that a tenant is entitled to relocation assistance prior to being required to vacate his or her unit if a landlord endeavors to recover possession of the unit within six months of the service of an order to abate by the citing department. This presumption shall not apply after the order to abate has been abated.

(a) Notice to Vacate. In order for a tenant or owner-occupant to be eligible for relocation assistance, a landlord shall provide each tenant, or the citing department shall provide the owner-occupant, in addition to any requirements for notice imposed by Sections 37.9(a)(10), (a)(11) or (a)(14) of the San Francisco Administrative Code, a notice to vacate, that states that the unit must be vacated because it is an unsafe residential unit. A copy of the order to abate shall be attached to the notice to vacate. Each notice to vacate shall state its duration and that the occupant(s) are eligible for relocation assistance, and shall include a full description of the requirements and scope of that assistance, as described herein. If a landlord elects to reduce or not pay relocation assistance under any of the exceptions set forth below, the notice to vacate shall state the exception upon which the landlord relies and the amount of relocation assistance, if any, to be paid to the tenant. It shall be rebuttably presumed that the notice provided by the landlord is valid.

(b) Relocation Assistance Due to Tenants. Relocation assistance in the form of a relocation payment shall be provided by the landlord to each individual adult tenant, or if the tenant is a minor, to the responsible adult with whom the minor has been residing at the premises. A relocation payment shall be offered or provided only in the following circumstances: (i) where there has been an order to abate by a citing department; (ii) where the unit constitutes an unlawful residential use and the landlord seeks to permanently remove the unit from housing use; or (iii) where the premises constitute an unlawful residential use and the landlord seeks to temporarily vacate the unit in order to convert the premises to a lawful use. The amount of relocation assistance shall be based upon the length of time the tenant will be displaced from the unit; provided that in no event shall a tenant be entitled to receive relocation assistance provided by Sections 37.9(a)(11) or 37.9(a)(13) of the Administrative Code if the tenant receives relocation assistance pursuant to this Chapter.

(1) Relocation Payment. The landlord shall provide a relocation payment, the amount of which is based upon the length of time the tenant will be displaced from the unit, to each tenant who is a member of the household which is being displaced. For relocation payments which involve calculations of assistance on a daily basis, displacement in excess of eight hours shall constitute one day's relocation benefits.

(A) Short-Term Relocation. Short-term relocation shall apply only when the period of displacement will be up to 30 days. For purposes of short-term relocation only, the term "tenant" shall include an owner-occupant and each member of the

owner-occupant's household where the owner-occupant and household members are required to vacate the residence as a result of an order to abate.

Short-term relocation payments shall be as follows: The tenant shall receive a relocation payment not less than four days prior to the effective date of relocation, except that where an Emergency Order, as defined in San Francisco Health Code Section 1630, has been issued, relocation assistance shall be paid immediately.

(i) The amount of the relocation payment shall be a minimum of \$35 per person per day for temporary housing costs and a minimum of \$10 per person per day for the costs of food, transportation and other quality of life services.

(ii) DPH, subject to approval by the Health Commission after a public hearing, shall adopt regulations which adjust this amount so that daily assistance for short-term relocation reasonably reflects the average daily housing and quality of life needs of tenants.

Payments shall be made for the estimated period of time that the tenant will be displaced; provided, however, that if the relocation period is extended beyond the initial payment period, payments shall be received in increments of not less than two days.

Only in the event of short-term relocation may the landlord receive funds from DPH to fulfill the landlord's obligation to pay relocation assistance pursuant to this subsection. Furthermore, owner-occupants who have received notices to vacate are entitled to short-term relocation assistance from DPH. In the event DPH's funds are insufficient to satisfy the landlord's obligation to provide relocation assistance to which the tenant is entitled, the landlord shall pay the tenant directly the entire amount of relocation assistance. The landlord may receive reimbursement from DPH at such time as there are sufficient moneys in DPH for this purpose, as determined by the Director-DPH.

(B) Moderate Term Relocation. Relocation payments for displacements between one and three months shall be as follows: Each tenant shall receive \$1,250, but the total relocation payment shall not exceed \$4,000 per household; provided further that the maximum relocation payment for a single person household shall not exceed \$2,000. All relocation payments under this subsection shall be provided before the expiration of the period provided for in the notice to vacate.

If upon surrender of possession of the unit, a household has not received the \$4,000 maximum relocation payment provided under this subsection, then upon presentation of receipts to the owner for actual costs incurred, the household may receive an additional relocation payment of up to \$4,000, notwithstanding the foregoing. Actual costs includes, but are not limited to costs of moving, storage, rent in excess of the amount paid by the household to the landlord, and additional utility and transportation costs.

However, in no event shall the amount of relocation assistance result in living expenses greater than that which the displaced tenant had immediately prior to the effective date of relocation.

(C) Permanent Relocation. The landlord shall provide relocation assistance in an amount equal to five months' fair market rent, as stated in the most recent schedule maintained by the Department of Housing and Urban Development (HUD) for a comparable residential unit; provided however that the maximum amount of relocation assistance to which a tenant is entitled shall not exceed five months' fair market rent for a two-bedroom unit. This subsection shall apply whenever an order to abate cites

an unlawful residential use and the landlord seeks to demolish or otherwise permanently remove the unit from housing use. Relocation payment under this subsection is an obligation separate from and additional to the refund of any security deposit pursuant to California Civil Code Section 1950.5, Chapter 49 of the San Francisco Administrative Code, or any other remedy available to the tenant by law.

(2) Relocation upon Shortened Time. Upon the issuance of an emergency order by the citing department requiring temporary vacation of a unit with less than 15 days' written notice, the landlord shall immediately pay to the tenant 25 percent of the per diem amount required by Subsection (A), multiplied by each day such notice was less than 15 days. This relocation payment is in addition to any other relocation payment as provided for herein.

(c) Right to Reoccupy. Any tenant evicted or required to vacate under the provisions of this Chapter shall have the right of first refusal to reoccupy the unit or other portion of the residential structure from which the tenant was evicted or required to vacate.

In addition, the following procedures are to be followed in affording the right of reoccupancy to the displaced tenant.

(1) The landlord, at the time the tenant vacates the unsafe residential unit, shall give written notice advising the tenant of his/her right to reoccupancy. The notice shall also include the landlord's residential or business address and telephone number. The notice shall be in the appropriate language of the affected tenant(s).

(2) The tenant shall provide the landlord with his/her address and telephone number, which the landlord will use for future notification purposes.

(3) Within 14 days of receipt of written notice from DPH that the violations have been abated or prior to the landlord's offering for rent or lease the unit or portion of the residential structure from which the tenant was displaced pursuant to this Chapter, whichever is sooner, the landlord shall notify the tenant, in the appropriate language of the affected tenant(s), that she or he may exercise his/her right to reoccupy. The notice shall be given by certified mail, return receipt requested, to the address provided by the tenant and to all other addresses which the landlord has actual knowledge that the tenant resides or may be contacted. The notice shall state in no less than 12 point type, that the tenant must accept the offer of the unit within 19 days of mailing and that failure to do so may result in the termination of all right to reoccupy.

(4) If the tenant does not respond to the notice within 19 calendar days of the date of mailing, or the landlord is unable to locate the tenant upon the exercise of good faith effort to do so, the landlord shall be deemed to have complied with this Section, and the tenant's right to reoccupy shall terminate. (Added by Ord. 400-96, App. 10/21/96; amended by Ord. 394-97, App. 10/17/97)

SEC. 72.4. EXCEPTIONS TO PAYMENT OF RELOCATION ASSISTANCE. (a) Any tenant who refuses to vacate within the time period stated on the notice to vacate pursuant to Section 72.3(a) shall not be entitled to receive relocation assistance; provided that if the tenant has, after good faith efforts, been unable to obtain alternative housing, the landlord shall extend the time period in which to vacate by an additional 30 days and the tenant retains their right to receive relocation assistance as provided in this Chapter.

(b) If the tenant has failed to pay rent due, a landlord may elect to deduct the amount of rent owed from the relocation assistance a tenant would otherwise be entitled to under this Chapter. If the landlord elects to offset the relocation payments, any dispute as to whether rent is due or the amount that is due shall be resolved in a court of competent jurisdiction. Upon final determination by the court, the landlord shall make relocation payments to the tenant less the amount of rent that was found to be lawfully owed to the landlord. Failure to make said payment shall be enforced pursuant to the remedies provided by Section 72.6 herein.

(c) If any tenant or guest or invitee of the tenant has created the lead hazard or has caused or substantially contributed to the conditions giving rise to the unsafe conditions necessitating relocation, the tenant shall not be entitled to receive relocation assistance. The landlord shall allege in the notice to vacate and, under penalty of perjury, state specific facts supporting the allegation that the tenant, or guest or invitee of the tenant, caused or substantially contributed to the conditions creating the lead hazards. The burden of proof shall be on the landlord to demonstrate the specific facts supporting the allegations. Should the landlord fail to provide such information, the tenant is entitled to damages equal to three times the relocation assistance the tenant is entitled to under this Chapter. Any dispute as to whether the tenant, or guest or invitee of the tenant caused or substantially contributed to the conditions creating the lead hazard shall be resolved in a court of competent jurisdiction. This exception shall apply only to payments subject to moderate term relocation, as defined in Section 72.3(b)(1)(B) herein.

(d) The tenant's knowledge of the status of the unit as an unsafe residential unit shall not disqualify a tenant from eligibility for relocation assistance provided by this Chapter. (Added by Ord. 400-96, App. 10/21/96; amended by Ord. 394-97, App. 10/17/97)

SEC. 72.5. RENT INCREASES DURING LEAD HAZARD WORK. It shall be unlawful for a landlord to increase the amount of rent for any vacated unit pursuant to this chapter, except as otherwise permitted by Chapter 37, San Francisco Administrative Code. (Added by Ord. 400-96, App. 10/21/96)

SEC. 72.6. VIOLATION AND PENALTY. Any person or their authorized agent who violates, disobeys, wilfully neglects or refuses to comply with or resists the execution of this Chapter or who causes or permits the violation of this Chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not exceeding \$1,000, or by imprisonment not exceeding six months, or both such fine and imprisonment. In addition to any fine imposed hereunder for a violation of this Chapter, any person violating or causing or permitting the violation of this Chapter shall reimburse the City and County of San Francisco for any costs or expenses incurred for investigation of said violation. (Added by Ord. 400-96, App. 10/21/96; amended by Ord. 394-97, App. 10/17/97)

SEC. 72.7. ENFORCEMENT. Whenever a landlord violates any part of this Chapter, any aggrieved tenant may file a civil action for injunctive relief, money damages, and whatever other relief the court deems appropriate. The prevailing party shall be entitled to reasonable attorney's fees and costs pursuant to order of the court.

The remedy afforded by this Section is cumulative to other existing remedies available to a tenant. (Added by Ord. 400-96, App. 10/21/96)

CHAPTER 74

RENT ESCROW ACCOUNT PROGRAM

- Sec. 74.1. General.
- Sec. 74.2. Definitions.
- Sec. 74.3. REAP Trust Fund.
- Sec. 74.4. Use of REAP and Health Code Section 599 Funds.
- Sec. 74.5. Precertification Procedures.
- Sec. 74.6. Escrow Account.
- Sec. 74.7. Expenditure of REAP Funds.
- Sec. 74.8. Manner of Service for Use of REAP Funds.
- Sec. 74.9. Recording of Lien for Expenditure of REAP Funds.
- Sec. 74.10. Refund of REAP Funds.
- Sec. 74.11. Payment of Administrative Costs.
- Sec. 74.12. Duties of the Director-DPH.
- Sec. 74.13. Effects on Tenants' Rights.
- Sec. 74.14. Other Sources of Funds.
- Sec. 74.15. Applicability of Chapter 37, San Francisco Administrative Code.

SEC. 74.1. GENERAL. (a) **Purpose.** It is the purpose of this Chapter to provide a just, efficient and practical method of abating unsafe or substandard housing conditions attributable to the presence of lead hazards in a unit occupied by a lead-poisoned child; to be cumulative, and in addition, to any other remedy available at law or equity for said abatement; to encourage full and expedient compliance by landlords with the standards for lead-safe dwellings, as set forth in Article 26 of the San Francisco Health Code.

(b) **Scope.** This Chapter shall apply to all residential units in all existing buildings, structures, and premises which consist of or contain one or more rental units, as defined herein. The remedy provided by this Chapter shall be in addition to those remedies for failure to perform ordinary repair and maintenance which results in abatement of lead hazards, as defined by Article 26 of the Health Code, and those remedies provided by Chapter 37, San Francisco Administrative Code ("Chapter 37"); provided, further that nothing in this Chapter shall alter, enlarge or modify the scope of Chapter 37.

(c) **Role of Director of Public Health.** The Director of Public Health, or his or her designee, shall be responsible for carrying out the provisions of this Chapter. The Director is hereby authorized to issue orders and promulgate policies, rules and regulations to effectuate the purposes of this Chapter by conducting studies and investigations and holding such public hearings as are deemed necessary to promulgate, administer and enforce any regulation, rule or order adopted pursuant to this Chapter.

(d) **Other Provisions of the San Francisco Municipal Code Unaffected Hereby.** Adoption of this Chapter shall not be deemed to repeal directly or by implication any other provision of the San Francisco Municipal Code, and the adoption hereof shall not affect or diminish the power or authority of an officer or employee of the City to condemn, demolish, vacate or repair any building or structure erected or maintained in violation of any provision of said Municipal Code or to cause

the condemnation, demolition, vacation or repair of the same. The administration and application of the provisions of this Chapter shall not be construed as constituting ownership, operation, or management by the City and County of San Francisco ("City") of any building. In addition: nothing in this Chapter shall be construed to cause the City, its agents, employees or officers, to be agents, employees, partners, or joint ventures of a landlord, a tenant or any interested party who receives funds from the REAP Trust Fund.

(e) **Cumulative Nature of Remedies and Penalties.** Unless otherwise expressly provided, the remedies and penalties provided by this Chapter are cumulative to each other and to any other remedies or penalties available under law. (Added by Ord. 398-96, App. 10/21/96)

SEC. 74.2. DEFINITIONS. The following words and phrases, whenever used in this Chapter, shall be construed as defined in this Section:

Citing Department. The Childhood Lead Prevention Program within the Department of Public Health or its successor agency and the Department of Building Inspection or its successor agency.

Director-DBI. Director of Building Inspection or his or her designee.

Director-DPH. Director of Public Health or his or her designee.

Interested Party. Any person, firm, corporation, partnership, or other entity having a recorded interest in the real property which is the subject of abatement action or participating in the Rent Escrow Account Program, including but not limited to judgment liens, mechanics' liens, and liens for payment of family support.

Landlord. An owner, lessor, or sublessor (including any person, firm, corporation, partnership, or other entity) who receives or is entitled to receive rent for the use and occupancy of any residential unit or portion thereof, or the agent, representative, or successor of any of the foregoing.

Proof of Compliance. Documentation, in such form as the citing department shall provide, that the lead hazards described in the order or citation have been fully abated. The Director-DPH, by regulation, may specify the acceptable evidence for proof of compliance. The burden is on the landlord or the interested party to obtain and provide to the Director any proof of compliance.

REAP. Rent Escrow Account Program, as provided by this Chapter, which results in the creation of individual escrow accounts, comprised of monthly rental payments by tenants occupying unsafe residential units, the deposits of which are to be used for the abatement of lead hazards in said unsafe residential units.

Residential Unit. All residential dwelling units in the City and County of San Francisco, together with the land and appurtenant buildings, structures, or premises thereto, which consist of or contain one or more rental units, including the housing services, furnishings and facilities supplied in connection with the residential use or occupancy.

Tenant. A person entitled to use or occupy a residential unit by written or oral agreement, including a tenant, subtenant, or any person whose right to occupancy is through sufferance.

Unsafe Residential Unit. A residential unit shall be deemed unsafe for the purposes of this Chapter only if it is the subject of a citation or order issued by the citing department and is deemed a nuisance pursuant to Article 26 of the Health Code. (Added by Ord. 398-96, App. 10/21/96)

SEC. 74.3. REAP TRUST FUND. The Director-DPH shall establish and maintain the REAP Fund in accordance with the provisions of this Chapter and in accord with commonly accepted fiduciary practice. Funds to be used for the purposes established by REAP shall consist of payments made into the fund in the form of monthly rental payments of tenants lawfully occupying unsafe residential units received by DPH pursuant to the provisions of this Chapter. (Added by Ord. 398-96, App. 10/21/96)

SEC. 74.4. USE OF REAP AND HEALTH CODE SECTION 599 FUNDS. The funds which derive from Health Code Section 599 or are paid into the escrow account shall only be expended on the abatement of lead hazards, as defined by the Director-DPH. The use of these funds shall be limited to the reasonable cost of materials and labor in performing the abatement work. (Added by Ord. 398-96, App. 10/21/96)

SEC. 74.5. PRECERTIFICATION PROCEDURES. (a) **Consideration by Director-DPH for Placement in REAP.** The Director-DPH may abate lead hazards found in any building through the REAP process. Consideration of a building containing an unsafe residential unit for placement in the REAP must take place no more than 10 days from the expiration of the period allowed for compliance with an order or citation issued by the citing department where the unsafe conditions listed on such order remain, or 90 days after the date such order or citation was issued, whichever first occurs. Funds available to DPH to abate lead hazards in a building in the REAP shall consist of all monies that have accumulated in the fund established by Health Code Section 599 and monthly rental deposits made to the REAP Trust Fund by the tenants of the building in which the unsafe residential unit is situated.

Before any funds can be expended by the City, the Director shall review a description of the unsafe conditions, including their location within the premises, and any other information as required by such regulations as the Director-DPH may promulgate. In any actions or proceedings pursuant to this Chapter, a recommendation to use REAP shall not be invalidated solely because required information is not reviewed, is inaccurate or is incomplete.

(b) **Notice of Decision to Use REAP Process to Abate Lead Hazards.** Within three days of making the decision to use the REAP process to abate the lead hazards, the Director-DPH shall provide, in writing, his/her decision to utilize REAP to abate lead hazards in the unsafe residential unit to the landlord, tenants, any interested parties and any other person who has requested such notification in writing.

(c) **Manner of Giving Notice.** Notice of the decision to utilize REAP funds may be given either by personal delivery to the landlord or be deposited in the United States mail in a sealed envelope, postage prepaid, and delivered to the address known to the citing division or department, or if not known, the address as shown on the last equalized assessment roll. Service by mail shall be deemed complete at the time of deposit in the United States mail. The failure of any landlord or other person to receive such notice shall not affect in any manner the validity of any of the proceedings or action taken hereunder. Proof of giving any such notice may be made by a declaration signed under penalty of perjury by any employee of the City. (Added by Ord. 398-96, App. 10/21/96)

SEC. 74.6. ESCROW ACCOUNT. Tenants may deposit their rental payments into the REAP fund only after the Director-DPH has certified that the work necessary to abate the lead hazards in the unsafe residential unit has not been performed by the owner. Such certification shall be based on a written report by a citing department containing the following information: the estimate for the abatement work; the amount of monies currently available in the Health Code Section 599 fund; those monies which are likely to be available in the Health Code Section 599 fund within the next month; and, the amount of money likely to be collected from a rental deposits by tenants in the unsafe residential unit for the duration of the anticipated abatement work. The Director-DPH shall make his or her decision to utilize the REAP at a particular building based on the information contained in this report and on any other factors which are reasonable under the circumstances.

The Director-DPH shall notify all affected tenants by mail of the existence of the account, including an explanation of how rental payments shall be deposited into the account. A record of all deposits made by tenants shall be maintained by the Director-DPH. The Director-DPH shall provide, at least once a month for the expected duration of the deposits of rent into REAP, a report to the landlord and the tenants concerning the activity in the account, including but not limited to, the provision for payment of reasonable administrative costs. The records of such account shall be reasonably available for public inspection. (Added by Ord. 398-96, App. 10/21/96)

SEC. 74.7. EXPENDITURE OF REAP FUNDS. Once the Director-DPH determines that the abatement of lead hazards can be performed with REAP and Health Code Section 599 funds, the landlord and all tenants shall be notified in writing that lead hazard abatement work will be performed on the unsafe residential unit. Only the City or its duly hired independent contractor may utilize REAP and Health Code Section 599 funds to perform lead hazard abatement work. (Added by Ord. 398-96, App. 10/21/96)

SEC. 74.8. MANNER OF SERVICE FOR USE OF REAP FUNDS. Service on all persons entitled to a notice pursuant to this Chapter may be sent by first-class mail, postage prepaid. In addition, a copy of any notice shall be posted in a conspicuous place upon the building involved.

The tenants of the building shall be notified of the principal provisions of REAP, of the mechanism for voluntary payment of rent into the escrow account, and of their legal rights with respect to eviction under the provisions of this Chapter. Nothing in this Chapter enlarges, expands or creates rights for those tenants who would otherwise be exempt from the eviction provisions of Section 37.9 of the San Francisco Administrative Code.

The failure of any landlord or other person to receive such notice shall not affect in any manner the validity of any proceedings taken thereunder. (Added by Ord. 398-96, App. 10/21/96)

SEC. 74.9. RECORDING OF LIEN FOR EXPENDITURE OF REAP FUNDS. Upon completion of abatement of the lead hazards through the use of REAP, the Director-DPH shall file and record a lien, on a form to be prescribed by the Director, legally describing the real property subject to REAP, stating that the lead hazards that were observed within the building in violation of local law were abated

by the expenditure of REAP and Health Code Section 599 funds and the amount of funds so expended that are subject to the lien. Collection of said lien shall be in accord with the procedures set forth in Chapter 10, Article XX, San Francisco Administrative Code. (Added by Ord. 398-96, App. 10/21/96)

SEC. 74.10. REFUND OF REAP FUNDS. The unexpended portion of REAP funds derived from the tenants' monthly rental deposits shall be refunded to the landlord within a reasonable time of completion of the abatement work, as evidenced by a certificate of final completion or abatement notice issued by the citing department. (Added by Ord. 398-96, App. 10/21/96)

SEC. 74.11. PAYMENT OF ADMINISTRATIVE COSTS. The owner of a property for which REAP funds are utilized shall pay administrative costs of \$85 per hour for the time spent by staff of the Department of Public Health evaluating, reviewing and monitoring the abatement of lead hazards on the landlord's property. (Added by Ord. 398-96, App. 10/21/96)

SEC. 74.12. DUTIES OF THE DIRECTOR-DPH. The Director-DPH shall, in addition to performing the duties as prescribed herein, perform the following duties pertaining to the sound and efficient administration of this Chapter. Such duties may be delegated by him/her:

(a) **Determination of Interested Parties.** A title report, listing all persons on the records of the County Recorder as having an ownership interest or liens, encumbrances or other interests in the real property on which the building is situated, shall be obtained. In addition, the names and addresses of any other interested party known to the Director-DPH or any member of the Task Force, as defined by Health Code Section 1606, shall be obtained.

(b) **Contact with Tenants.** Tenants of any building may be contacted after the decision that the lead hazards should be abated by the REAP process. Such contact may be in person or by mail or by both. Whatever reasonable means are necessary to carry out this activity, including but not limited to, contacting neighborhood organizations, may be used.

Any specific responses furnished by tenants or their representatives or agents, whether or not identifiable as attributable to any individual tenant, shall be confidential. (Added by Ord. 398-96, App. 10/21/96)

SEC. 74.13. EFFECTS ON TENANTS' RIGHTS. (a) **Escrow Payment as Rent.** The gross amount paid into the REAP Trust Fund by or on behalf of a tenant shall be deemed a rent payment made in that same amount to the landlord. In any action by a landlord to recover possession of a residential unit for nonpayment of rent, the tenant may raise the fact of payments into the REAP Trust Fund as an affirmative defense in the same manner as if such payments had been made to and accepted by the landlord.

(b) **Recovery of Unit.** A landlord may bring an action to recover possession of a rental unit that has been accepted into the REAP program based upon any grounds permitted by State or local law, provided that nothing in this Chapter may be construed to affect the applicability of Chapter 37 to those units that are subject to its provisions.

(c) **Retaliatory Eviction.** If the landlord is seeking to recover possession of a residential unit in retaliation against the tenant for exercising his or her rights under this Chapter or because of his or her complaint to an appropriate agency as to the habitability of a residential unit, or because of any other actions or proceedings by the City under this Chapter, then the landlord may not recover possession of a residential unit in any action or proceeding or cause the tenant to quit involuntarily. (Added by Ord. 398-96, App. 10/21/96)

SEC. 74.14. OTHER SOURCES OF FUNDS. The Director-DPH shall identify sources of funds other than those identified in this Section that may supplement the moneys available through REAP and Health Code Section 599 to successfully abate the unsafe conditions. The Director-DPH shall make this information reasonably available on a regular basis. (Added by Ord. 398-96, App. 10/21/96)

SEC. 74.15. APPLICABILITY OF CHAPTER 37, SAN FRANCISCO ADMINISTRATIVE CODE. Rent increases for those units subject to Chapter 37 continue to be governed by the provisions of that Chapter. Units not within the scope of that Chapter shall be governed by the terms and conditions of a written lease, if any, and applicable State and local laws other than Chapter 37. (Added by Ord. 398-96, App. 10/21/96)

CHAPTER 78**REFUNDING BOND SAVINGS TEST ACT**

- Sec. 78.1. Declaration of Policy.
Sec. 78.2. Name.
Sec. 78.3. Definitions.
Sec. 78.4. Alternative Savings Test for Refunding Bonds.
Sec. 78.5. Construction.

SEC. 78.1. DECLARATION OF POLICY. It is hereby declared to be the policy of the City to permit the refunding of outstanding general obligation bonds and lease obligations of the City whenever such refunding shall result in net debt service savings to the City pursuant to the procedure set forth in this Chapter as well as by any other method permitted by law or other ordinance of the Board. This Chapter is enacted pursuant to the powers reserved to the City under Sections 3.5 and 7 of Article XI of the Constitution of the State of California and Sections 9.106, 9.108 and 9.109 of the Charter. (Added by Ord. 363-97, App. 8/26/97)

SEC. 78.2. NAME. This Chapter shall be known as the Refunding Bond Savings Test Act. (Added by Ord. 363-97, App. 8/26/97)

SEC. 78.3. DEFINITIONS. For purposes of this Chapter, the following terms shall have the meanings given below:

- (a) The term "Board" shall mean the Board of Supervisors of the City.
- (b) The term "Charter" shall mean the Charter of this City.
- (c) The term "City" shall mean the City and County of San Francisco.
- (d) The term "lease obligations" shall include the City's obligation under any lease entered into with any nonprofit corporation, authority or other entity which issues, or causes to be issued, lease revenue bonds or certificates of participation secured by, or evidencing interests in, the City's obligation under such lease.
- (e) The term "refunded bond" shall mean any outstanding general obligation bond or lease obligation to be refunded by the City.
- (f) The term "refunding bond" shall mean any bond issued or lease obligation entered into for the purpose of refunding in whole or in part, any general obligation bond or any lease obligation.
- (g) The term "yield" shall mean the yield on the refunding bonds as calculated pursuant to the provisions of the Internal Revenue Code of 1986, as amended from time to time. (Added by Ord. 363-97, App. 8/26/97)

SEC. 78.4. ALTERNATIVE SAVINGS TEST FOR REFUNDING BONDS.
(a) Acting under the provisions of the Charter or under any other provision of general State law, the Board may provide for the issuance of refunding bonds for the purpose of refunding any outstanding general obligation bonds or lease obligations of the City. No voter approval shall be required for any such refunding bonds which provide net debt service savings to the City on a present value basis calculated as provided in such provisions of general State law or by other ordinance of the Board or as hereinafter provided in Section 78.4(b). Subject to the foregoing limitation, the principal amount

of the refunding bonds (in aggregate or with respect to any maturity) may be more than, less than or the same as the principal amount of the bonds or lease obligations to be refunded.

(b) Net debt service savings shall be calculated by comparing the present value of the aggregate debt service on the refunding bonds to that of the refunded bonds as of the date of the refunding bonds using an assumed rate of interest equal to the yield on the refunding bonds. To the extent required, any funds contributed to the refunding by the City shall be deducted from the savings calculation. Notwithstanding any provision of general State law to the contrary, Section 78.4(b) shall provide an alternative means of calculating debt service savings to any procedure contained in general State law. The City is authorized to rely on any other State law procedure related to calculating debt service savings.

(c) The Board may authorize the issuance and provide the final terms, amounts, maturities, interest rates and other provisions of the refunding bonds (including a reference to the procedure Under which debt service savings is to be calculated) by means of an indenture, resolution, ordinance, order, agreement or other instrument in writing. If the Board establishes the minimum savings to be generated by the issuance of such refunding bonds, the Board may delegate to appropriate officials or officers of the City or of the Board the authority to determine the final terms, amounts, maturities, interest rates and other provisions of said refunding bonds. (Added by Ord. 363-97, App. 8/26/97)

SEC. 78.5. CONSTRUCTION. The powers conferred by the provisions of this Chapter are in addition to and supplemental to the powers conferred by the Charter or any other ordinance or by law. (Added by Ord. 363-97, App. 8/26/97)

CHAPTER 79**PREAPPROVAL NOTICE FOR CERTAIN CITY PROJECTS**

Sec. 79.1.	Scope.
Sec. 79.2.	Definitions.
Sec. 79.3.	Exemptions.
Sec. 79.4.	Change in City Project.
Sec. 79.5.	Signposting Requirements.
Sec. 79.6.	Alternative Notice Provisions.
Sec. 79.7.	Permission to Enter Property.
Sec. 79.8.	Rights Affected.

SEC. 79.1. SCOPE. No city officer, department, board or commission shall approve a City project unless a sign has been posted on the property on which the City project will be located at least 15 days prior to such approval. The City officer, department, board or commission responsible for approving a City project shall post the sign required by this Chapter. The notice required by this Chapter shall be in addition to the notice requirements provided elsewhere in the San Francisco Municipal Code. (Added by Proposition I, 6/2/98)

SEC. 79.2. DEFINITIONS. For purposes of this Chapter, the following definitions shall apply:

(a) "Approve" or "approval" shall mean an action by a City officer, department, board or commission sponsoring a City project in which a final commitment is made by such sponsoring officer, department, board or commission to fund or undertake a City project. Such approval may include, but is not limited to, a decision to award a grant for a City project at a specific site, or to purchase or acquire an interest in particular real estate to locate a City project. Approval shall not include a decision to undertake a preliminary study of one or more potential sites for a City project. Approval shall refer only to the actions of the sponsoring officer, department, board or commission.

(b) "City project" shall mean the following:

(i) A project that:

(A) Involves new construction, a change in use, or a significant expansion of an existing use at a specific location; and

(B) Houses City operations at, or provides services or assistance from, such specified location; and

(C) Is undertaken directly by the City or any of its officers, departments, boards or commissions; or by an agent, contractor, service provider, or other person that receives \$50,000 or more in City funding for the construction and related work associated with the project and/or operating expenses for the project at such fixed location.

(ii) "City project" shall include, but is not limited to, administrative offices, housing and other residential projects, and programs that provide services or assistance for the benefit of all or some members of the public from a fixed location.

(c) "City funding" shall mean funding provided directly by the City or administered by the City through the use of federal, state or other funding sources.

(d) "Significant expansion of existing use" shall mean the lesser of an addition amounting to 50 percent of gross floor area, or 1,500 square feet or more of gross floor area, as determined by the Zoning Administrator in accordance with Section 102.9 of the San Francisco Planning Code. (Added by Proposition I, 6/2/98)

SEC. 79.3. EXEMPTIONS. The following City projects shall be exempted from this Section:

- (a) A shelter for battered persons;
- (b) A State-authorized, certified, or licensed family care home, foster home, or group home serving six or fewer mentally disordered or otherwise disabled persons or dependent and neglected children, in accordance with California Welfare and Institutions Code Section 5116 or as set forth in Section 209.3(b) of the Planning Code;
- (c) A City project undertaken solely to achieve compliance with the disabled access requirements of the Americans With Disabilities Act or the California Building Code;
- (d) Projects in the public right-of-way;
- (e) A project at a fixed location that is outside of the City limits of the City and County of San Francisco. (Added by Proposition I, 6/2/98)

SEC. 79.4. CHANGES IN CITY PROJECT. In the event that a City project is approved pursuant to the provisions of this Act, that approval shall be limited to the specific site and the specific use granted in the approval. Any changes to the City project which involve a different site, or a different use, or a redirection of the funding for the project in any way, shall be subject to the provisions of this Act and shall require a new preapproval notice procedure. (Added by Proposition I, 6/2/98)

SEC. 79.5. SIGNPOSTING REQUIREMENTS. Those City projects subject to this Chapter shall comply with the following signposting requirements:

(a) Posting. At least 15 days prior to consideration of approval of a City project, the City officer, department, board or commission considering such approval shall post a sign on the property on which the City project is proposed. Such a sign shall be posted through the date of approval or disapproval of the City project by the sponsoring City entity.

(b) Location of Sign. The sign shall meet the following requirements:

(1) The sign shall be posted inside of windows that are no more than six feet back from the property line, where the windows are of sufficient size to accommodate the sign. The bottom of the sign shall be no lower than four feet above grade and the top of the sign shall be no higher than eight feet six inches above grade. The sign shall not be obstructed by awnings, landscaping, or other impediment and shall be clearly visible from a public street, alley, or sidewalk.

(2) In the absence of windows meeting the above criteria where the building facade is no more than nine feet back from the property line, the sign shall be affixed to the building, with the bottom of the sign being at least five feet above grade and the top of the sign being no more than seven feet six inches above grade. The sign shall be protected from the weather as necessary. The sign shall not be obstructed by awnings, landscaping, or other impediment, and shall be clearly visible from a public street, alley, or sidewalk.

(3) Where the structure is more than nine feet from the property line the sign shall be posted at the property line with the top of the sign no more than six feet and no less than five feet above grade. Such signs shall be attached to standards and shall be protected from the weather as necessary.

(4) If no structures occupy the property, signs shall be posted sufficiently to provide adequate notice to the public. The Director of Administrative Services shall be responsible for determining the number of signs to be posted on such property.

(5) Contents and Size of Signs. The sign shall be at least thirty inches by thirty inches. The sign shall be entitled NOTICE OF INTENT TO APPROVE A CITY PROJECT AT THIS LOCATION. The lettering of the title shall be at least 1¼-inch capital letters. All other letters shall be at least ¾-inch uppercase and ½-inch lowercase. The sign shall provide an identification of: the officer, department, board or commission that will determine whether to approve the City project; the date upon which approval will be considered; and the procedure for obtaining additional information or submitting comments, which shall include, but not be limited to, a local contact person and telephone number where that person may be reached.

(d) Production of Signs. The Director of Administrative Services shall develop a standardized sign that may be used to satisfy this Section. The Director of Administrative Services may charge a fee sufficient to cover the costs of producing such signs. (Added by Proposition I, 6/2/98)

SEC. 79.6. ALTERNATIVE NOTICE PROVISIONS. In lieu of the signposting requirements in Section 79.5, a City officer, department, board or commission shall send mailed notice to the owner of each property within 300 feet of the lot line of the property on which the City project is proposed. Notice shall be sent to the property owners reflected on the latest Citywide Assessor roll and neighborhood associations and organizations listed with the Planning Department where the site would be located within the indicated geographic area of interest of said association or organization. In addition, to the extent practicable, mailed notice shall be sent to the occupants of each property with 300 feet of the lot line of the property on which the City project is proposed. The mailed notice shall include, at a minimum, all of the information required in Section 79.5(c). Mailed notice shall be sent at least 20 days prior to consideration of approval of a City project. (Added by Proposition I, 6/2/98)

SEC. 79.7. PERMISSION TO ENTER PROPERTY. Every person who has possession of property that is the subject of the preapproval signposting process required by this Chapter shall permit entry at a reasonable time to allow the posting of the sign required herein. No person shall remove or cause the removal of such sign during the period of time that posting is required herein without reasonable cause to believe that such removal is necessary to protect persons or property from injury. (Added by Proposition I, 6/2/98)

SEC. 79.8. RIGHTS AFFECTED. The requirements of this Chapter are not intended to give any right to any person to challenge in any administrative or judicial proceeding any action if such person would not otherwise have the legal right to do so. A party aggrieved by a decision to approve or disapprove a City project may utilize any existing avenue(s) of appeal. (Added by Proposition I, 6/2/98)



CHAPTER 81**AFFORDABLE HOUSING AND HOME OWNERSHIP BOND PROGRAM**

Sec. 81.1.	Purpose.
Sec. 81.2.	Issuance of Bonds.
Sec. 81.3.	Housing Account.
Sec. 81.4.	Proposed Use of Bond Proceeds.
Sec. 81.5.	Mayor's Office of Housing.
Sec. 81.6.	Regulations.
Sec. 81.7.	Reports to the Board of Supervisors.

SEC. 81.1. PURPOSE. The purpose of this Chapter 81 is to describe the affordable housing and home ownership bond program ("program") pursuant to which the City and County of San Francisco ("City") may loan or grant general obligation bond proceeds for the development of affordable housing for low-income households and for downpayment assistance to low and moderate income first-time homebuyers, each as further described in this Chapter. (Added by Ord. 445-97, App. 12/5/97)

SEC. 81.2. ISSUANCE OF BONDS. The City is authorized to issue \$100,000,000 of general obligation bonds to finance (i) the development of housing affordable to low-income households in the City and County of San Francisco, and (ii) downpayment assistance to low and moderate income first-time homebuyers; together with all other costs necessary or convenient for the foregoing purposes. (Added by Ord. 445-97, App. 12/5/97)

SEC. 81.3. HOUSING ACCOUNT. Bond proceeds shall be deposited into a separate account to be established by the Controller. Repayments of loans made from this account shall be applied first to finance development of affordable rental housing and downpayment assistance for low and moderate income first-time homebuyers, in accordance with this Chapter, and then may be used for any other lawful purpose under this program, subject to the budget and fiscal provisions of the City's Charter. Expenditures shall be subject to the budget and fiscal provisions of the City's Charter. (Added by Ord. 445-97, App. 12/5/97)

SEC. 81.4. PROPOSED USE OF BOND PROCEEDS. Following payment of costs of issuance, 85 percent of the bond proceeds will be used for the development of affordable rental housing through the development account described in the regulations, and 15 percent of the bond proceeds will be used for downpayment assistance for low and moderate income first-time homebuyers through the downpayment assistance loan account described in the program regulations; including all legally permissible administrative costs related to the program. (Added by Ord. 445-97, App. 12/5/97)

SEC. 81.5. MAYOR'S OFFICE OF HOUSING. The Mayor's Office of Housing or its successor, or another agency or department as determined by the Mayor, will be responsible for the administration of the program, subject to any

legislation and rules and regulations described in this Chapter. (Added by Ord. 445-97, App. 12/5/97)

SEC. 81.6. REGULATIONS. The Mayor's Office of Housing will prepare regulations for the program, which shall be subject to approval of the Board of Supervisors by resolution. (Added by Ord. 445-97, App. 12/5/97)

SEC. 81.7. REPORTS TO THE BOARD OF SUPERVISORS. The Mayor's Office of Housing will provide an annual report to the Board of Supervisors on the status of the program. (Added by Ord. 445-97, App. 12/5/97)

CHAPTER 83**FIRST SOURCE HIRING PROGRAM**

Sec. 83.1.	Short Title.
Sec. 83.2.	Findings.
Sec. 83.3.	Purpose.
Sec. 83.4.	Definitions.
Sec. 83.5.	Scope.
Sec. 83.6.	First Source Hiring Administration.
Sec. 83.7.	Duties of City Departments.
Sec. 83.8.	Workforce Development Advisory Committee.
Sec. 83.9.	First Source Hiring Requirements for Contracts and Property Contracts.
Sec. 83.10.	Violation of First Source Hiring in Contracts and Property Contracts.
Sec. 83.11.	First Source Hiring Requirements for Permits for Commercial Development.
Sec. 83.12.	Violation of First Source Hiring in Permits.
Sec. 83.13.	Records.
Sec. 83.14.	General Exclusions and Limitations.
Sec. 83.15.	Collective Bargaining Agreements.
Sec. 83.16.	Severability.
Sec. 83.17.	Limited to Promotion of General Welfare.
Sec. 83.18.	Operative Date and Application.

SEC. 83.1. SHORT TITLE. This Chapter shall be known as the "First Source Hiring Program." (Added by Ord. 264-98, App. 8/21/98)

SEC. 83.2. FINDINGS. (a) In August 1996, a new federal law, the Personal Responsibility and Work Opportunity Act, also known as "welfare reform," fundamentally changed the nature of public assistance programs in this country, shifting the focus from the receipt of benefits to procurement of employment within specified time limits. Approximately 17,350 of San Francisco's children and 7,330 of its adults (3.4 percent of the population) who currently receive Temporary Assistance to Needy Families (TANF), the program formerly known as Aid to Families with Dependent Children (AFDC), will be limited to five cumulative years of aid during their lifetime. This means that within five years, the adult members of these families, unless specifically exempted, must be employed at an economically self-sufficient level. Under the new federal law, after two years on aid, most recipients must work in order to maintain eligibility for TANF. As families reach their time limits, there will be no federal or State funding help to support them. Therefore, the creation and retention of adequate employment opportunities within the City is essential to prevent these families from falling into complete destitution.

(b) The federal law will penalize states that fail to meet their assigned quotas for moving individuals from welfare to work by imposing monetary sanctions that will be passed on to the counties. It is estimated that failure by the City to meet its work-force participation goals would cost \$2.33 million the first year, and \$3.27 million the second year.

(c) Many people on welfare and other economically disadvantaged individuals do not have immediate access to employment opportunities that will bring economic self-sufficiency. Often, long-term recipients of public benefits are confronted with multiple barriers to full employment, including lack of education, job-readiness skills and work experience.

(d) Between 1990 and 1993, San Francisco lost over 37,500 jobs, including scores of well-paying blue collar positions, particularly in manufacturing.

(e) The welfare time limits imposed upon families place tremendous pressure on the City to find jobs, provide appropriate training opportunities, and assist economically disadvantaged individuals to find and retain adequate employment. The availability of sufficient employment opportunities is essential to the economic and social well-being of the City. This process of workforce development must be a component of the City's economic development planning.

(f) New development and construction of commercial projects tend to increase property values which in turn can displace low-income residents and put a greater burden on the City to assist economically disadvantaged individuals.

(g) Additionally, business expansion places increased demand upon, and reduces the available pool, of qualified workers. The City's economic health depends upon the maintenance of that pool. Job training funds are a component of welfare reform and will result in an increase of available qualified workers. Thus, early identification of entry level positions in new or growing commercial activity allows the City to plan training programs that will prepare economically disadvantaged individuals to be available for these new jobs. One of the goals of this Chapter is to create a seamless job referral system.

(h) The City, the business community, the service providers, organized labor, the schools, and the people who must personally meet the challenge of welfare reform are gathering at a unique historical moment. The time limits on public assistance are a matter of law, and the only choice is to organize the opportunities so as not to bypass these workers. The consequences of welfare reform are significant not just for the individuals who must find economic self-sufficiency, but for the whole economic well-being and commercial activity of the City and its constituents.

(i) The concept of "First Source Hiring" under this Chapter contains two essential components: the identification of entry level positions in order to properly allocate training resources, and the availability of the first opportunity for graduates of those training programs to be considered for employment. The City must work with the business community, the service providers, organized labor and schools in identifying workforce needs, developing job readiness standards, supporting training that creates a new pool of qualified workers, and providing a mechanism by which the business community can draw upon this pool; thereby facilitating and strengthening the relationship between the City, community-based job training, development and placement programs, and the private sector. While the City commits to providing the support services necessary to ensure the successful transition to economic self-sufficiency, the business community must be willing to offer these employment opportunities to qualified economically disadvantaged individuals.

(j) Participation in the City's First Source Hiring Program can be economically advantageous to employers. The Program is expected to provide a ready supply of qualified workers to employers with hiring needs. There are a variety of City, federal and State tax credits available for hiring qualified economically disadvantaged

individuals. The City offers a New Jobs Hiring Tax Credit to businesses that create new, permanent jobs, or relocates existing jobs to the City, of 100 percent against the City's payroll tax for the first year, and 50 percent for the second. Businesses that create summer jobs for economically disadvantaged youth are eligible for a 50 percent credit against the City's payroll tax. Within State-designated "Enterprise Zone" areas of San Francisco, businesses that create new jobs for qualified individuals are eligible for a gradually declining payroll tax credit, beginning at 100% for the first two years, and available for a total of 10 years. The State of California also allows a hiring tax credit against wages paid qualified economically disadvantaged individuals, and a sales tax credit for equipment purchased in designated Enterprise Zones.

(k) In order to provide financial assistance to employers who hire qualified economically disadvantaged individuals, the federal government offers the Federal Welfare-to-Work Credit and the Work Opportunity Tax Credit.

(l) The City is committed, in partnership with the Private Industry Council, to facilitating employer access to tax credit and other financial incentive information regarding the hiring of qualified economically disadvantaged individuals who meet City, State or federal program criteria. (Added by Ord. 264-98, App. 8/21/98)

SEC. 83.3. PURPOSE. The purpose of this Chapter is to establish a First Source Hiring Program for the City and County of San Francisco to foster construction and permanent employment opportunities for qualified economically disadvantaged individuals. Participation in this program shall be required in City contracts and City property contracts.

This Chapter additionally requires similar first source hiring obligations to be included in permits authorizing construction of certain commercial development projects.

Because of the wide variety of contracts, and property contracts entered into, and permits issued by, the City, there is no single first source hiring requirement that can be applied and enforced in all such contract and permit situations. Therefore, specific first source hiring requirements must be tailored to individual contracts, property contracts, and permits for commercial activities. An administrative body shall be established by the City to assist in the tailoring of these requirements, and shall be known as the "First Source Hiring Administration (FSHA)" for the purpose of implementing and overseeing the first source hiring requirements under this Chapter.

This Chapter is intended to authorize and direct the First Source Hiring Administration, where consistent with the purpose of this Chapter and its assessment of feasibility, and in a manner that avoids conflicts with applicable federal and State law, to set entry level position hiring and retention goals for contracts, property contracts and permits.

Nothing in this Chapter is intended to, nor shall it be interpreted or applied so to create delay to, or impose a monetary exaction upon, developers under permits subject to the requirements of first source hiring.

Three years after the effective date of this Chapter, the Board of Supervisors shall review the First Source Hiring Program to determine: (1) the number of entry level positions identified and acquired by qualified economically disadvantaged individuals; (2) whether participants in the Workforce Development System received appropriate and sufficient training; (3) whether the requirements of this Chapter are

adequate to achieve the goals of the program; and (4) whether amendments and/or revisions of this Chapter are needed. (Added by Ord. 264-98, App. 8/21/98)

SEC. 83.4. DEFINITIONS. (a) "Approved plan" shall mean a first source hiring implementation and monitoring plan developed by a City department and approved by the FSHA. Once a department's overall plan has been approved by the FSHA, the department is not required to seek authorization from the FSHA for individual contracts, property contracts or permits unless otherwise instructed to do so in the approved plan.

(b) "City" shall mean the City and County of San Francisco.

(c) "Commercial activity" shall include retail sales and services, restaurant, hotel, office uses, and other commercial uses.

(d) "Contract" shall mean an agreement for public works or improvements to be performed, or for goods or services to be purchased, or grants to be provided, at the expense of the City, or to be paid out of moneys deposited in the Treasury of the City, or out of trust moneys under the control of, or collected by, the City involving an expenditure in excess of \$350,000 for construction contracts, and in excess of \$200,000 for services. Contract shall also mean loans or grants in excess of \$200,000 which are awarded by the Mayor's Office of Housing, the Mayor's Office of Community Development, the Mayor's Office of Children, Youth and their Families, or by any other City department.

The requirements of this Chapter shall apply to: (1) entry level positions for work performed on the contract in the City; (2) entry level positions for work performed on the contract in counties contiguous to the City; and (3) entry level positions for work performed on the contract on property owned by the City.

For purposes of this Chapter, "contract" shall include subcontracts under the contract subject to first source hiring, unless otherwise exempted under this Chapter.

For purposes of this Chapter, "contract" shall not include contracts for urgent litigation expenses as determined by the City Attorney, emergency contracts under San Francisco Administrative Code Section 6.30, or Section 21.25, sole source contracts, tolling agreements, cooperative purchasing agreements with other governmental entities or contracts with other governmental entities.

(e) "Contractor" shall mean any person(s), firm, partnership, corporation, or combination thereof, who enters into a contract or property contract with a department head or officer empowered by law to enter into contracts or property contracts on the part of the City.

(f) "Developer" shall mean the property owner, agents of the property owner, including but not limited to management companies, person or persons, firm, partnership, corporation, or combination thereof, having the right under the San Francisco Planning Code and/or the San Francisco Building Code to make an application for approval of a commercial activity.

(g) "Development project" shall mean commercial activity(ies) that requires a Permit that is subject to the requirements of this Chapter.

(h) "Economically disadvantaged individual" shall mean an individual who is either: (1) eligible for services under the Job Training Partnership Act, 29 U.S.C. Section 1503, as determined by the San Francisco Private Industry Council; or (2) designated "economically disadvantaged" by the First Source Hiring Administration, as an individual who is at risk of relying upon, or returning to, public assistance.

(i) "Employer" shall mean a contractor, subcontractor, developer, agents of the developer, tenants or other occupants, or person(s), firm, partnership, corporation, or combination thereof engaged in the commercial activity(ies) in the development project, who is subject to the requirements of this Chapter.

(j) "Entry level position" shall mean a non-managerial position that requires either: (1) no education above a high school diploma or certified equivalency; or (2) less than two years of training or specific preparation; and shall include temporary and permanent jobs, and construction jobs related to the development of a commercial activity.

(k) "First source hiring agreement" shall mean the written agreement entered into by the employer with the City which details the particular first source hiring requirements with which an employer must comply, as further defined in Sections 83.9 and 83.11 of this Chapter.

(l) "FSHA" shall mean the First Source Hiring Administration.

(m) "Permit" shall mean, during Phase I, as defined in Section 83.4(n) below, either or both of the following: (1) any building permit application for a commercial activity over 50,000 square feet in floor area and involving new construction, an addition, or alteration which results in the expansion of entry level positions for a commercial activity; (2) any application which requires discretionary action by the City's Planning Commission relating to a commercial activity over 50,000 square feet including, but not limited to, a conditional use, project authorization under San Francisco Planning Code Section 309, and office development under San Francisco Planning Code Section 320, et seq.

During Phase II, as defined Section 83.4(o) below, either or both of the following: (1) any building permit application for a commercial activity over 25,000 square feet in floor area and involving new construction, an addition, or alteration which results in the expansion of entry level positions for a commercial activity; (2) any application which requires discretionary action by the City's Planning Commission relating to a commercial activity over 25,000 square feet including, but not limited to conditional use, project authorization under San Francisco Planning Code Section 309, and office development under San Francisco Planning Code Section 320, et seq.

The requirements of this Chapter shall apply to entry level positions for work done under a permit authorizing a development project in the City.

(n) "Phase I" shall refer to the first stage of implementation of this Article which shall become operative 30 days after the ordinance adopting this Chapter becomes effective, and shall apply to contracts for public works or improvements to be performed, property contracts, grants or loans issued by the Mayor's Office of Housing, or by the Mayor's Office of Community Development, and permits issued for commercial activity over 50,000 square feet.

(o) "Phase II" shall refer to the second stage of implementation of this Chapter which shall become operative 24 months after the adoption of a resolution by the FSHA that Phase I has been implemented, and shall apply to contracts for services in the amount of \$200,000, contracts for the procurement of goods, materials, equipment or supplies as determined by the Purchaser under Section 83.7(d) of this chapter, permits issued for commercial activity exceeding 25,000 square feet; and grants and loans in excess of \$200,000 issued by other City departments.

(p) "Property contract" shall mean a written agreement, including leases, concessions, franchises and easements, between the City and a private party for the

exclusive use of real property, owned or controlled by the City, for a term exceeding 29 days in any calendar year (whether by a singular instrument or by cumulative instruments) for the operation or use of such real property for the operation of a business establishment, that creates available entry level positions. For purposes of this Chapter, "property contract" does not include an agreement for the City to use or occupy real property owned by others, or leases, easements or permits entered into by the Public Utilities Commission for pipeline rights-of-way property and watershed property.

(q) "Publicize" shall mean to advertise or post, and shall include participation in job fairs, or other forums in which employment information is available.

(r) "Qualified" with reference to an economically disadvantaged individual shall mean an individual who meets the minimum bona fide occupational qualifications provided by the prospective employer to the San Francisco Workforce Development System in the job availability notices required by this Chapter.

(s) "Retention" shall, when used in this Chapter, be construed to apply to the entry level position, not to any particular individual.

(t) "San Francisco Workforce Development System (System)" shall mean the system established by the City and County of San Francisco, and managed by the FSHA, for maintaining: (1) a pool of qualified individuals; and (2) the mechanism by which such individuals are certified and referred to prospective employers covered by the first source hiring requirements under this Chapter. (Added by Ord. 264-98, App. 8/21/98)

SEC. 83.5. SCOPE. The requirements of this Chapter shall apply to: (a) entry level positions for work performed on the contract in the City; (b) entry level positions for work performed on the contract in counties contiguous to the City; (c) entry level positions for work performed on the contract on property owned by the City; and (d) entry level positions for work done under a permit authorization on a development project in the City. (Added by Ord. 264-98, App. 8/21/98)

SEC. 83.6. FIRST SOURCE HIRING ADMINISTRATION. (a) **Establishment and Composition.** A First Source Hiring Administration ("FSHA") is hereby established for the purpose set forth in Subsection (b) below. The FSHA shall consist of the following: (1) the Mayor or his/her designee from the Mayor's Office of Economic Development; (2) the Executive Director of the Department of Human Services, or his/her designee; (3) the Director of the Mayor's Office of Community Development, or his/her designee; (4) the President of the Private Industry Council, or his/her designee; (5) other City department representatives appointed by the FSHA as necessary from time to time; and (6) other San Francisco governmental agency representatives participating in the First Source Hiring Program and invited by the FSHA.

(b) **Powers and Duties.** The FSHA shall be responsible for the implementation, oversight, and monitoring of the first source hiring requirements of this Chapter. Its powers and duties shall include:

(1) Providing assistance to individual City departments in designing first source hiring implementation and monitoring plans for that department to use in contracts and property contracts, including criteria for assigning particular numerical hiring goals, or reviewing and approving existing Plans. The FSHA shall work with depart-

ments to identify those contracts and property contracts that offer available entry level positions in duration and numbers sufficient to justify the additional administrative duties resulting from the implementation of the requirements of this Chapter. To the greatest extent possible, the development of these plans shall utilize the department's existing contract-monitoring procedures and facilitate a coordinated flow of information;

(2) Working with the Department of City Planning and the Department of Building Inspection to establish conditions based upon first source hiring agreements for development projects;

(3) Working with employers and unions to identify entry level positions for qualified economically disadvantaged individuals, and to set appropriate recruitment, hiring and retention goals;

(4) Managing the San Francisco Workforce Development System;

(5) Determining appropriate monitoring and enforcement mechanisms to achieve the purpose of this Chapter, and consistent with Sections 83.10 and 83.12, below;

(6) Developing written regulations to implement first source hiring;

(7) Entering into cooperative agreements with other San Francisco governmental agencies, including, but not limited to, the Housing Authority, the Redevelopment Agency, the In-Home Supportive Services Public Authority, and the Parking Authority, consistent with the laws governing such agencies and consistent with the purpose of this Chapter;

(8) Conducting independent audits of City departmental implementation, monitoring and enforcement of the requirements of this Chapter;

(9) Preparing an annual report on the progress of first source hiring for presentation to the Mayor and the Board of Supervisors;

(10) Submitting all approved first source hiring implementation and monitoring plans ("approved plan") to the Workforce Development Advisory Committee for review;

(11) Developing effective outreach, education, support services for, and recognition of, employers.

(c) The FSHA shall phase-in implementation of this Chapter in accordance with Section 83.18, below, and as defined in Sections 83.4 (n) and (o), above. The FSHA shall first establish a schedule for assisting in the development of, or approving existing first source hiring implementation and monitoring plans by the following City departments: Airport; Department of Building Inspection; Department of Planning; Department of Public Health; Mayor's Office of Children, Youth and Families; Mayor's Office of Community Development; Mayor's Office of Housing; Municipal Railway; Parks and Recreation; Port; Public Works, and Purchasing. The FSHA shall also establish a schedule for the remaining City departments.

(d) The FSHA shall exercise its powers and duties in a manner that does not result in delay, or impose a monetary exaction under permits, subject to this Chapter.

(e) The FSHA shall make the final administrative determination as to compliance with the requirements of this Chapter. (Added by Ord. 264-98, App. 8/21/98)

SEC. 83.7. DUTIES OF CITY DEPARTMENTS. (a) All commissions, departments, officers and employees of the City shall cooperate with the FSHA in connection with their respective duties relative to the award of contracts, property contracts, and the issuance of permits subject to this Chapter.

(b) City departments shall develop an overall first source hiring implementation and monitoring plan ("plan") with the assistance of the FSHA. Once the FSHA approves the plan ("approved plan"), the department is not required to seek approval from the FSHA for specific contracts, property contracts or permits unless otherwise instructed to do so in the approved plan. If a department is required to comply with federal or state hiring program regulations that meet or exceed the requirements of this Chapter, that department shall submit that information as its plan. Compliance with such regulations shall be deemed to be an "approved plan." Compliance by a department with the approved plan shall be deemed to be compliance with the requirements of this Chapter. The FSHA may require regular reports by the department as part of the plan.

(c) In situations where both the Departments of Building inspection and Planning grant approval for a development project, the City's Department of Planning shall have primary jurisdiction for the conditions imposed on the permit required under this Chapter, and the role of the Department of Building Inspection shall be limited to assisting in enforcement of the first source hiring requirements.

(d) The Purchaser shall determine which contracts for the procurement of goods, materials, equipment or supplies to which it is feasible to apply the first source hiring requirements of this Chapter, and, in consultation with the FSHA, shall develop first source hiring criteria for inclusion in invitations to bid and requests for proposals. The successful bidder or respondent shall enter into a first source hiring agreement. (Added by Ord. 264-98, App. 8/21/98)

SEC. 83.8. WORKFORCE DEVELOPMENT ADVISORY COMMITTEE.

There shall be established a Workforce Development Advisory Committee ("Advisory Committee") to advise the FSHA on workforce development, employment needs, program policy, design, implementation, oversight, and monitoring. This advisory committee shall be appointed by the Mayor and shall include representatives of community-based organizations, labor, the business community, and City departments. The members of this advisory committee shall serve at will for a term of one year, and may be reappointed. This advisory committee shall meet at least quarterly. (Added by Ord. 264-98, App. 8/21/98)

SEC. 83.9. FIRST SOURCE HIRING REQUIREMENTS FOR CONTRACTS AND PROPERTY CONTRACTS.

(a) This Chapter applies to all contracts and property contracts, except where the FSHA determines that application of the requirements of this Chapter is not feasible or conflicts with applicable federal or State law.

(b) As an essential term of, and consideration for, any contract or property contract with the City, not exempted by the FSHA, the Contractor shall enter into a first source hiring agreement ("agreement") with the City, on or before the effective date of the contract or property contract. Such agreement shall:

(1) Set appropriate hiring and retention goals for entry level positions. The employer shall agree to achieve these hiring and retention goals, or, if unable to achieve these goals, to establish good faith efforts as to its attempts to do so, as set forth in the agreement. The agreement shall take into consideration the employer's participation in existing job training, referral and/or brokerage programs. Within the discretion of the FSHA, subject to appropriate modifications, participation in such

programs may be certified as meeting the requirements of this Chapter. Failure either to achieve the specified goal, or to establish good faith efforts will constitute noncompliance and will subject the employer to the provisions of Section 83.10 of this Chapter.

(2) Set first source interviewing, recruitment and hiring requirements, which will provide the San Francisco Workforce Development System with the first opportunity to provide qualified economically disadvantaged individuals for consideration for employment for entry level positions. Employers shall consider all applications of qualified economically disadvantaged individuals referred by the System for employment; provided however, if the employer utilizes nondiscriminatory screening criteria, the employer shall have the sole discretion to interview and/or hire individuals referred or certified by the San Francisco Workforce Development System as being qualified economically disadvantaged individuals. The duration of the first source interviewing requirement shall be set forth in each agreement, but shall not exceed 10 days. During that period, the employer may publicize the entry level positions in accordance with the agreement. A need for urgent or temporary hires must be evaluated, and appropriate provisions for such a situation must be made in the agreement.

(3) Set appropriate requirements for providing notification of available entry level positions to the San Francisco Workforce Development System so that the System may train and refer an adequate pool of qualified economically disadvantaged individuals to participating employers. Notification should include such information as employment needs by occupational title, skills, and/or experience required, the hours required, wage scale and duration of employment, identification of entry level and training positions, identification of English language proficiency requirements, or absence thereof, and the projected schedule and procedures for hiring for each occupation. Employers should provide both long-term job need projections and notice before initiating the interviewing and hiring process. These notification requirements will take into consideration any need to protect the employer's proprietary information.

(4) Set appropriate record keeping and monitoring requirements. The First Source Hiring Administration shall develop easy-to-use forms and record keeping requirements for documenting compliance with the agreement. To the greatest extent possible, these requirements shall utilize the employer's existing record keeping systems, be nonduplicative, and facilitate a coordinated flow of information and referrals.

(5) Establish guidelines for employer good faith efforts to comply with the first source hiring requirements of this Chapter. The FSHA will work with City departments to develop employer good faith effort requirements appropriate to the types of contracts and property contracts handled by each department. Employers shall appoint a liaison for dealing with the development and implementation of the employer's agreement. In the event that the FSHA finds that the employer has taken actions primarily for the purpose of circumventing the requirements of this Chapter, that employer shall be subject to the sanctions set forth in Section 83.10 of this Chapter.

(6) Set the term of the requirements.

(7) Set appropriate enforcement and sanctioning standards consistent with this Chapter.

(8) Set forth the City's obligations to develop training programs, job applicant referrals, technical assistance, and information systems that assist the employer in complying with this Chapter.

(9) Require developer to include notice of the requirements of this Chapter in leases, subleases, and other occupancy contracts.

(c) The employer shall make the final determination of whether an economically disadvantaged individual referred by the System is "qualified" for the position. Any qualified economically disadvantaged individual who is hired by the employer shall have the same rights and obligations as all other employees in similar positions. The employer shall not discriminate against any employees on the basis of participation in the First Source Hiring Program. Any such discrimination shall be considered a breach of the employer's "good faith" obligations under the agreement, and shall be subject to the sanctions set forth in Section 83.10 of this Chapter.

(d) Compliance by an employer with a City department's approved plan shall be deemed to be compliance with the requirements of this Chapter.

(e) In any situation where the FSHA concludes based upon application by the employer that compliance with this Chapter would cause economic hardship the FSHA may grant an exception to any or all of the requirements of this Chapter. (Added by Ord. 264-98, App. 8/21/98)

SEC. 83.10. VIOLATION OF FIRST SOURCE HIRING IN CONTRACTS AND PROPERTY CONTRACTS. (a) Violation of the requirements of this Chapter is subject to an assessment of liquidated damages as set forth below. Additionally, contractors, except property contractors, may be subject to the provisions of Sections 6.52, 6.58, and/or 6.60 of the San Francisco Administrative Code.

(b) If upon administrative review as provided for in Subsection (e) of this Section, the FSHA determines that entry level positions were not made available to the System for referral of qualified economically disadvantaged individuals as specified in the employer's first source hiring agreement, and the employer does not remedy the violations, that employer shall be assessed liquidated damages in the amount of \$2,070 for every new hire for an entry level position improperly withheld from the first source hiring process.

(c) Lack of referrals of qualified economically disadvantaged individuals, delay in referrals due to causes beyond the reasonable control of the employer, emergency, or other good cause as demonstrated by the employer to the FSHA may be a defense to the assessment of liquidated damages under this Chapter.

(d) If the developer fulfills its obligations as set forth in this Chapter, the developer shall not be held responsible for the failure of an employer to comply with the requirements of this Chapter.

(e) The assessment of liquidated damages and the evaluation of any defenses or mitigating factors, shall be made by the FSHA.

(f) The FSHA shall establish procedures that allow an employer to respond to any complaints of noncompliance made by a City department or other interested party, or any determination of noncompliance with this Chapter made by the FSHA, prior to the imposition of any sanctions by the City. (Added by Ord. 264-98, App. 8/21/98)

SEC. 83.11. FIRST SOURCE HIRING REQUIREMENTS FOR PERMITS FOR COMMERCIAL DEVELOPMENT. (a) Developers applying for permits as defined in Section 83.4(m) shall cooperate with the FSHA in establishing first source hiring agreement(s) for the development project. Such agreement shall become a condition of the permit, and shall:

(1) Set appropriate hiring and retention goals for entry level positions for all employers engaged in construction work on, and commercial activity(ies) to be conducted in, the development project. The developer shall agree to require all such employers to achieve these hiring and retention goals, or, if unable to achieve these goals, to establish good faith efforts as to their attempts to do so, as set forth in the agreement. The agreement shall take into consideration the employer's participation in existing job training, referral and/or brokerage programs. Within the discretion of the FSHA, subject to appropriate modifications, participation in such programs may be certified as meeting the requirements of this Chapter. Failure either to achieve the specified goal, or to establish good faith efforts will constitute noncompliance and will subject the employer to the sanctions provided in Section 83.12 of this Chapter.

(2) Set first source interviewing, recruitment and hiring requirements for all employers engaged in construction work on, and commercial activity(ies) to be conducted in, the development project, which will provide the San Francisco Workforce Development System with the first opportunity to provide qualified economically disadvantaged individuals for consideration for employment for entry level positions. Employers subject to the agreement shall consider all applications of qualified economically disadvantaged individuals referred by the System for employment; provided however, if the employer utilizes nondiscriminatory screening criteria, the employer shall have the sole discretion to interview and/or hire individuals referred or certified by the San Francisco Workforce Development System as being qualified economically disadvantaged individuals. The duration of the first source interviewing requirement shall be set forth in each agreement but shall not exceed 10 days. During that period, the employer subject to the agreement may publicize the positions in accordance with the agreement. A need for urgent or temporary hires must be evaluated, and appropriate provisions for such a situation must be made in the agreement.

(3) Set appropriate requirements for providing notification of available entry level positions to the San Francisco Workforce Development System so that the System may train and refer an adequate pool of qualified economically disadvantaged individuals to employers subject to the agreement. Notification should include such information as employment needs by occupational title, skills, and/or experience required, the hours required, wage scale and duration of employment, identification of entry level and training positions, identification of English language proficiency requirements, or absence thereof, and the projected schedule and procedures for hiring for each occupation. Employers subject to the agreement should provide both long-term job need projections, and notice before initiating the interviewing and hiring process. These notification requirements will take into consideration any need to protect the employer's proprietary information.

(4) Set appropriate record keeping and monitoring requirements. The First Source Hiring Administration shall develop easy to use forms and record keeping requirements for documenting compliance with the agreement. To the greatest extent possible, these requirements shall utilize the employer's existing record keeping

systems, be nonduplicative, and facilitate a coordinated flow of information and referrals.

(5) Establish guidelines for employer good faith efforts to comply with the first source hiring requirements of this Chapter. The FSHA will work with City departments to develop employer good faith effort requirements appropriate to the types of permits handled by each department. Employers shall appoint a liaison for dealing with the development and implementation of the employer's agreement. In the event that the FSHA finds that the employer has taken actions primarily for purpose of circumventing the requirements of this Chapter, that employer shall be subject to the sanctions set forth in Section 83.12 of this Chapter.

(6) Set the term of the requirements.

(7) Set appropriate enforcement and sanctioning standards consistent with this Chapter.

(8) Provide that the agreement shall be recorded.

(9) Set forth the City's obligations to develop training programs, job applicant referrals, technical assistance, and information systems that assist the employer in complying with this Chapter.

(10) Require developer to include notice of the requirements of this Chapter in leases, subleases, and other occupancy contracts.

(b) The employer subject to the agreement shall make the final determination of whether an economically disadvantaged individual referred by the System is "qualified" for the position. Any qualified economically disadvantaged individual who is hired by the employer shall have the same rights and obligations as all other employees in similar positions. The employer shall not discriminate against any employees on the basis of participation in the First Source Hiring Program. Any such discrimination shall be considered a breach of the employer's "good faith" obligations under the agreement, and shall be subject to the sanctions set forth in Section 83.12 of this Chapter.

(c) Compliance by an employer subject to the agreement with a City department's approved plan shall be deemed to be compliance with the requirements of this Chapter. In situations where an employer must comply with the requirements of this Chapter as part of a contract or property contract, and subsequently must apply for permits for the same project that is the subject of the contract or property contract, the employer will be deemed to be in compliance with this Chapter.

(d) In any situation where the FSHA concludes based upon application by the employer that compliance with this Chapter would cause economic hardship or the burden of compliance would be disproportionate to the impacts of the employer's commercial activity(ies) in the City, the FSHA shall grant an exception to any or all of the requirements of this Chapter. (Added by Ord. 264-98, App. 8/21/98)

SEC. 83.12. VIOLATION OF FIRST SOURCE HIRING IN PERMITS.

(a) The sole financial remedy for violation of the requirements of this Chapter is the penalty set forth below. Additionally, failure to comply with the conditions imposed on the permit may be subject to the provisions of San Francisco Building Code Section 104.2.

(b) If upon administrative review, as provided for in Subsection (e) of this Section, the FSHA determines that entry level positions were not made available to the System for referral of qualified economically disadvantaged individuals as

specified in the Employer's First Source Hiring Agreement, and the employer does not remedy the violations, that employer shall be assessed a penalty in the amount of \$2,070 for every new hire for an entry level position improperly withheld from the first source hiring process.

(c) Lack of referrals of qualified economically disadvantaged individuals, delay in referrals due to causes beyond the reasonable control of the employer, emergency, or other good cause as demonstrated by the employer to the FSHA may be a defense to the assessment of a penalty under this Chapter.

(d) If the developer fulfills its obligations as set forth in this Chapter, the developer shall not be held responsible for the failure of an employer to comply with the requirements of this Chapter.

(e) The assessment of a penalty and the evaluation of any defenses and mitigating factors, shall be made by the FSHA.

(f) The FSHA shall establish procedures that allow an employer to respond to any complaints of noncompliance made by a City department or other interested party, or any determination of noncompliance with this Chapter made by the FSHA, prior to the imposition of any sanctions by the City. (Added by Ord. 264-98, App. 8/21/98)

SEC. 83.13. RECORDS. The employers subject to provisions of this Chapter shall maintain and provide the FSHA with the records necessary to document compliance with the requirements of this Chapter as determined in the first source agreement. (Added by Ord. 264-98, App. 8/21/98)

SEC. 83.14. GENERAL EXCLUSIONS AND LIMITATIONS. Nothing in this Chapter shall be interpreted to interfere with, or prohibit existing labor agreements, nondiscrimination programs, workforce training programs and agreements, economically disadvantaged hiring and retention goals. This Chapter is to be implemented a manner that does not conflict with applicable federal or State laws.

Nothing in this Chapter shall be interpreted in a manner that would displace an employer's existing workers.

The FSHA may reach agreements with other governmental agencies that have similar programs in order to ensure that requirements imposed pursuant to this Chapter and by other governmental agency authority do not create an undue burden or conflicting obligations on employers, and to make the implementation of the purpose of this Chapter feasible where the City and other jurisdictions have joined together to procure goods, services or public works. (Added by Ord. 264-98, App. 8/21/98)

SEC. 83.15. COLLECTIVE BARGAINING AGREEMENTS. Notwithstanding anything to the contrary in this Chapter, if a first source hiring agreement conflicts with an existing collective bargaining agreement to which an employer is a party, the collective bargaining agreement shall prevail. However, the employer will be obligated to provide workforce needs information to the San Francisco Workforce Development System and the employer will be obligated to make good faith efforts to comply with the requirements of its first source hiring agreement that do not conflict with the collective bargaining agreement. (Added by Ord. 264-98, App. 8/21/98)

SEC. 83.16. SEVERABILITY. If any part or provision of this Chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of this Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Chapter are severable. (Added by Ord. 264-98, App. 8/21/98)

SEC. 83.17. LIMITED TO PROMOTION OF GENERAL WELFARE. In undertaking the adoption and enforcement of this Chapter, the City and County of San Francisco is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its commissions, departments, officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury. (Added by Ord. 264-98, App. 8/21/98)

SEC. 83.18. OPERATIVE DATE AND APPLICATION. Phase I, as defined in 83.4(n) shall become operative 30 days after the date the ordinance adopting this Chapter becomes effective, Phase II, as defined in Section 83.4(o) of this Chapter will become operative 24 months after adoption of a resolution by the FSHA that Phase I has been implemented. This Chapter is intended to have prospective effect only, and shall not be interpreted to impair any rights under any existing City contract or property contract or permit. The provisions of this Chapter shall expire five years after the effective date of this ordinance. (Added by Ord. 264-98, App. 8/21/98)

CHAPTER 84**PUBLIC UTILITIES COMMISSION SHORT-TERM INDEBTEDNESS**

- Sec. 84.1. Definitions.
- Sec. 84.2. Authorization of Short-Term Indebtedness.
- Sec. 84.3. Credit or Liquidity Support.
- Sec. 84.4. Maximum Short-Term Indebtedness.
- Sec. 84.5. Refunding Short-Term Indebtedness.
- Sec. 84.6. Construction.

SEC. 84.1. DEFINITIONS. For purposes of this Chapter, the following terms shall have the meanings given below:

- (a) The term "Board" shall mean the Board of Supervisors of the City.
- (b) The term "Charter" shall mean the Charter of this City.
- (c) The term "City" shall mean the City and County of San Francisco.
- (d) The term "Commission" shall mean the Public Utilities Commission of the City.

(e) The term "Director" shall mean Director of the Mayor's Office of Public Finance or any successor to that office. (Added by Ord. 203-98, App. 6/19/98)

SEC. 84.2. AUTHORIZATION OF SHORT-TERM INDEBTEDNESS. Following voter approval or Board approval, as the case may be, of the issuance of revenue bonds by the Commission pursuant to Section 9.107 of the Charter, the Commission, in anticipation of the issuance of such revenue bonds, may incur short-term indebtedness in the form of commercial paper, temporary notes or other forms of indebtedness subject to the limitations set forth below.

The issuance of such short-term indebtedness, and certain of the terms and conditions thereof, shall be subject to prior authorization by the Board.

Except as provided in Section 84.5, use of the proceeds of any such short-term indebtedness shall be limited to the purposes for which the applicable revenue bonds were approved by the voters or by the Board, as the case may be. Short-term indebtedness incurred pursuant to this Chapter shall not result in interest costs or a maturity date exceeding the limits, if any, fixed by the voters or the Board, as the case may be, with respect to the applicable revenue bond approval(s).

Such short-term indebtedness shall be payable solely from the proceeds of the applicable revenue bonds, or revenues of the Commission pledged, or to be pledged, to the payment of such revenue bonds. If any of the principal of such short-term indebtedness is paid from revenues of the Commission (other than revenues derived from grants) rather than from the proceeds of revenue bonds, the principal amount of revenue bonds the Commission is thereafter authorized to issue shall be reduced by the principal amount of short-term indebtedness paid from revenues (other than revenues derived from grants).

Any pledge of revenues by the Commission for the payment of short-term indebtedness may, in the sole discretion of the Director upon recommendation of the Commission, be subordinate to any pledge of the Commission for its revenue bonds.

All indebtedness incurred pursuant to this Chapter shall not constitute or evidence a debt of the City, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the City, or upon any income, receipt, revenue of the City, except the revenues or funds, if any, pledged by the Commission.

All short-term indebtedness incurred pursuant to this Chapter must additionally comply with each of the following provisions:

(a) Shall be evidenced by notes, warrants, commercial paper or other evidences of indebtedness maturing not later than five years from their issuance date; and

(b) Any draw on such short-term indebtedness shall be subject to approval by the Director.

Such short-term indebtedness may be sold at the discretion of the Director, upon recommendation of the Commission, by public or private sale. All other terms and conditions for such short-term indebtedness shall be determined by the Director, upon recommendation of the Commission. (Added by Ord. 203-98, App. 6/19/98)

SEC. 84.3. CREDIT OR LIQUIDITY SUPPORT. The Director, upon recommendation of the Commission, may arrange for credit or liquidity support for short-term indebtedness issued pursuant to this Chapter or may arrange for credit or liquidity support to provide an additional source of repayment for such short-term indebtedness.

Notwithstanding anything to the contrary in this Chapter, any monies paid by a financial institution under any agreement for credit or liquidity support (a "credit facility") shall:

(a) Be repaid over a period not exceeding the maximum maturity, if any, fixed by the voters or the Board, as the case may be, with respect to the applicable revenue bond approval;

(b) Bear interest at a rate that does not cause the aggregate average interest cost to exceed the maximum approved interest cost on such short-term indebtedness over the entire period such short-term indebtedness is outstanding; and

(c) Have such other terms and conditions as the Director, upon the recommendation of the Commission, shall fix. (Added by Ord. 203-98, App. 6/19/98)

SEC. 84.4. MAXIMUM SHORT-TERM INDEBTEDNESS. The maximum principal amount of all short-term indebtedness outstanding and incurred under this Chapter, including any amounts outstanding under any credit facility, together with the outstanding principal amount of related revenue bonds, shall not at any time exceed the maximum principal amount of the applicable revenue bonds approved by the voters or the Board, as the case may be. (Added by Ord. 203-98, App. 6/19/98)

SEC. 84.5. REFUNDING SHORT-TERM INDEBTEDNESS. The Commission, with the prior approval of the Director, may issue commercial paper, refunding notes, warrants, or other evidences of short-term indebtedness, in anticipation of the issuance of revenue bonds, for the purpose of paying and redeeming, at or prior to maturity, outstanding short-term indebtedness issued in accordance with this Chapter. Notwithstanding the preceding sentence, any short-term indebtedness issued to refund outstanding short-term indebtedness may not:

- (a) Exceed the interest cost limitation set forth in Section 84.2; and
- (b) Exceed the limitation on the maximum principal amount of short-term indebtedness set forth in Section 84.4; and
- (c) Mature more than five years from the original date of issuance of the original short-term indebtedness it is refunding.

Short-term indebtedness issued to refund outstanding short-term indebtedness may be refunded by the Commission in accordance with this Section 84.5. (Added by Ord. 203-98, App. 6/19/98)

SEC. 84.6. CONSTRUCTION. The powers conferred by the provisions of this Chapter are in addition to and supplemental to the powers conferred by the Charter or any other ordinance or law. (Added by Ord. 203-98, App. 6/19/98)



CHAPTER 86**CHILDREN AND FAMILIES FIRST COMMISSION**

- Sec. 86.1. Establishment of the San Francisco Children and Families First Commission.
- Sec. 86.2. Powers and Duties of the San Francisco Children and Families First Commission.
- Sec. 86.3. Membership and Organization of the San Francisco Children and Families First Commission.
- Sec. 86.4. Establishment of a San Francisco County Strategic Plan.
- Sec. 86.5. Severability.

SEC. 86.1. ESTABLISHMENT OF THE SAN FRANCISCO CHILDREN AND FAMILIES FIRST COMMISSION. (a) **Establishment.** The San Francisco Children and Families First Commission is hereby established. The Mayor's Office of Children, Youth and Their Families shall provide administrative support for the commission. The commission shall consist of nine members.

(b) **Purpose.** The commission is established to promote, support and improve the early development of children from the prenatal stage to five years of age and to carry out the provisions of the California Children and Families First Act of 1998. (Added by Ord. 409-98, App. 12/24/98)

SEC. 86.2. POWERS AND DUTIES OF THE SAN FRANCISCO CHILDREN AND FAMILIES FIRST COMMISSION. The commission shall have the following powers and duties:

(a) By May 1, 2000, the commission shall adopt an adequate and complete San Francisco Strategic Plan, as described in Section 86.4 below, for the support and improvement of early childhood development within the City and County of San Francisco. Prior to adopting the strategic plan, the commission shall hold no less than one public hearing on the proposed strategic plan.

(b) On at least an annual basis, the commission shall review its strategic plan and revise the plan as may be necessary or appropriate. The commission shall hold no less than one public hearing on its periodic review of the strategic plan before any revisions to the Plan are adopted.

(c) The commission shall submit its adopted strategic plan, and any subsequent revisions thereto, to the State Children and Families First Commission.

(d) On or before October 15th of each year, the commission shall prepare and adopt an audit of and issue a written report on the implementation and performance of its functions during the preceding fiscal year.

(1) At a minimum, the audit and report shall include the manner in which the funds were expended, the progress toward and the achievement of program goals and objectives, and the measurement of specific outcomes through appropriate reliable indicators.

(2) The commission shall transmit the audit and report to the State Children and Families First Commission annually.

(3) The commission shall conduct no less than one public hearing prior to adopting any annual audit and report.

(e) The commission shall conduct no less than one public hearing on each annual report by the State Commission prepared pursuant to California Health and Safety Code Section 130150(b).

(f) The commission shall establish no less than one advisory committee to provide technical and professional expertise and support for any purposes that will be beneficial in accomplishing the purposes of this Act. Each advisory committee shall meet and shall make recommendations and reports as deemed necessary or appropriate. One advisory committee shall be comprised of members nominated by the Starting Points Initiative Early Childhood Interagency Council.

(g) The commission shall expend the funds in the San Francisco Children and Families First Trust Fund, only for the purposes authorized by the Act and this ordinance and in accordance with the San Francisco County Strategic Plan approved by the commission.

(h) The commission shall be empowered to enter into such contracts as necessary or appropriate to carry out the provisions and purposes of the Act. (Added by Ord. 409-98, App. 12/24/98)

SEC. 86.3. MEMBERSHIP AND ORGANIZATION OF THE SAN FRANCISCO CHILDREN AND FAMILIES FIRST COMMISSION. (a) The members of the commission shall be appointed by the Board of Supervisors as follows:

(1) One member shall be the Director of Public Health or his or her designee.

(2) One member shall be the General Manager of the Department of Human Services or his or her designee.

(3) One member shall be a member of the Board of Supervisors.

(4) One member shall be the Director of the Mayor's Office of Children, Youth and Their Families or his or her designee.

(5) Five additional members shall be appointed from among the following categories: persons responsible for management of the following County functions: children services, public health services; behavioral health services, social services and tobacco and other substance abuse prevention and treatment services; recipients of project services included in the County strategic plan; educators specializing in early childhood development; representatives of a local child care resource or referral agency, the Child Care Planning and Advisory Council or another local child care coordinating group; representatives of a local organization for prevention or early intervention for families at risk; representatives of community-based organizations that have the goal of promoting and nurturing early childhood development; representatives of local school districts; and representatives of local medical, pediatric, or obstetric associations or societies. To the extent feasible, members shall be selected from existing committees, councils or coalitions promoting early childhood development in order to facilitate planning and coordination of services.

(b) The commission shall convene by March 1, 1999.

(c) All appointed members of the commission, that is, those appointed pursuant to Subsection (a)(4) above, shall serve at the pleasure of the Board of Supervisors. The term of each commission member appointed pursuant to Subsection (a)(4) shall be for four years; provided, however, that the members first appointed shall, by lot, classify their terms so that three members shall serve a three-year term, and three members shall serve a four-year term. On the expiration of these terms, their successors shall be appointed for a four-year term. In the event a vacancy occurs during the

term of office of any appointed member, a successor shall be appointed for the unexpired term of the office vacated in a manner similar to that for the initial member.

(d) A majority of the members of the commission shall constitute a quorum.

(e) The commission shall establish any additional rules and regulations for its own organization and procedure consistent with State and local law.

(f) No member of the commission shall be compensated for his or her services, except members may be paid reasonable per diem and reimbursement of reasonable expenses for attending meetings and discharging other official responsibilities as authorized by the commission. (Added by Ord. 409-98, App. 12/24/98)

SEC. 86.4. ESTABLISHMENT OF A SAN FRANCISCO COUNTY STRATEGIC PLAN. (a) The San Francisco Commission shall establish a San Francisco County Strategic Plan for the support and improvement of early childhood development within the City and County of San Francisco. The strategic plan shall be consistent with and in furtherance of the purposes of the Act and any guidelines adopted by the State Commission that are in effect at the time the strategic plan is adopted or subsequently revised.

(b) The strategic plan shall include, at a minimum:

(1) A description of the goals and objectives proposed to be attained;

(2) A description of the programs, services, and projects proposed to be provided, sponsored or facilitated;

(3) A description of how measurable outcomes of such programs, services, and projects will be determined by the commission using appropriate reliable indicators; and

(4) A description of how programs, services, and projects relating to early childhood development within the county will be integrated into a consumer-oriented and easily accessible system.

(c) Prior to adopting the strategic plan, and in each subsequent review of the strategic plan, the Children and Families First Commission shall review and consider:

(1) The current Children's Services Plan prepared by the Mayor;

(2) The most current comprehensive countywide child care plan, and any other reports, issued by the Child Care Planning and Advisory Council, or any other local child care planning council established pursuant to State law;

(3) Any current reports relating to early childhood development, parental education and/or family support services:

(A) Issued by the San Francisco Department of Public Health or Health Commission,

(B) Issued by the San Francisco Department of Human Services or Human Services Commission,

(C) Issued by the Citywide Alcoholism Advisory Board,

(D) Issued by the Maternal and Adolescent Health Board,

(E) Issued by the Drug Abuse Advisory Board,

(F) Issued by the Mental Health Board,

(G) Issued by the San Francisco Unified School District, and

(H) Issued by the Starting Points Initiative and/or its Early Childhood Interagency Council,

(I) Issued by any other federal, State or locally funded agencies in the City and County of San Francisco. (Added by Ord. 409-98, App. 12/24/98)

SEC. 86.5. SEVERABILITY. If any part or provision of this ordinance or the application thereof to any person or circumstance, is held invalid, the remainder of this ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. (Added by Ord. 409-98, App. 12/24/98)



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ZOOLOGICAL GARDENS

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See ANIMAL PURCHASE AND
EXCHANGE FUND (10.187)

Ext. Case
TABS
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